

THE
EIGHTH REPORT
OF THE
COMMISSIONERS

Appointed to inquire into the Duties, Salaries and Emoluments, of the OFFICERS, CLERKS, and MINISTERS of JUSTICE, in all Temporal and Ecclesiastical Courts in *Ireland*.

OFFICE

For the REGISTRY of MEMORIALS of Deeds, Conveyances, Wills and Devises concerning LANDS, &c. in *Ireland*.

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REPORT	•	-	-	-	-	-	-	-	-	-	p. 5.
APPENDIX	-	-	-	-	-	-	-	-	-	-	p. 57.

(Ireland.)

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TO THE KING'S MOST EXCELLENT MAJESTY,
IN HIS HIGH COURT OF CHANCERY.

WE, YOUR MAJESTY'S COMMISSIONERS, whose hands and seals are
hereunto set, beg leave, in this our Eighth Report, to certify to Your
Majesty what we have found in our examination respecting the Office established
for registering Memorials of Deeds, Conveyances, Wills, and Devises, concerning
honors, manors, lands, tenements and hereditaments in *Ireland*.

REGISTRY OF
MEMORIALS, &c.

Our fourth Report contained a summary view of this Office, with reference principally to the circumstances under which it was held by the present Patentee. We now proceed to lay before Your Majesty, the result of further inquiry and examination concerning it; and to submit such suggestions as we think it our duty to offer, upon a revision of the objects, regulations, and practice of this Office, which, it may be observed, differs from most of the Offices hitherto reported upon, in being subject to rules and directions expressly prescribed by Statute for its management and execution.

The purposes of this Institution, as declared by the Act which created the Office, are, for securing purchasers, and preventing forgeries, and fraudulent gifts and conveyances of lands, tenements and hereditaments. The Act proposes to provide for these objects by establishing a certain method, with proper rules and directions, for registering, in the exact order of time in which they shall be brought to the Office, Memorials (that is, abstracts of certain particulars) of all Deeds and Conveyances which shall be made and executed, and of all Wills and Devises in writing made, or to be made and published, after the 25th of March 1708, of or concerning any honors, manors, lands, tenements or hereditaments in *Ireland*; and by giving to each Deed or Conveyance, of which a Memorial is registered agreeably to this Act, priority according to the time of such Registry, so that it shall be deemed and taken good and effectual, both in law and equity, against all other dispositions. The 5th section of the same Act declares all unregistered Deeds or Conveyances of lands executed subsequent to the 25th of March 1708, void and fraudulent, not only as against Deeds or Conveyances whereof Memorials shall be registered in pursuance of this Act, but likewise against creditors by judgment, recognizance, statute merchant, or of the staple, as for and concerning any lands, &c. contained or expressed in such registered Memorials.

6 Anne, chap. 2.

REGISTRY OF
MEMORIALS, &c.

So far, at least, as the operation of this Act has extended, the Records of the Registry Office may be said to contain a history of the transfer of real property in Ireland, under legal dispositions for upwards of a century, and of the actual state of such property, as affected by temporary or permanent charges or incumbrances, under similar dispositions, at each moment, down to the present time.

Several subsequent Statutes, in furtherance of these objects, contain provisions for recording the satisfaction of mortgages, by entries upon the transcripts of registered Memorials of such mortgages in the appointed books, and filing certain certificates and affidavits thereof, for the registry of all deeds purporting to charge the property of shopkeepers and tradesmen for the benefit of their families, within a limited time; for the registry, also, within a limited time, of certain deeds of bankers, and of certain partnership deeds; for the entry of the dissolution of such partnerships, and also for the registry of memorials of certain civil bill decrees.

In the Statute of the 6th Anne, cap. 2. various rules and directions are prescribed for certifying the registry of deeds, and for transcribing and making entries from, and concerning memorials, in such a manner as not only to constitute a distinct record of each act, which thus becomes the subject of registry, but at the same time to afford the means of reference, to enable the officer, by searches, which under the Statute it is his duty to make when called upon, to ascertain, and thereupon to certify all acts for the security of parties interested, or the satisfaction of any who may be desirous of information respecting them; it being obviously necessary to the purposes of this institution that authentic information should be given as occasion might be found, respecting all transactions coming within the provisions of the Statute. Certain limited fees are appointed for the several services required to be performed by the Register.

A cursory notice of the principles and objects thus contemplated by the Legislature, and of the public benefits resulting from provisions which tend generally to secure and facilitate pecuniary transactions, will suggest an idea of the nature and utility of the office under consideration. We may observe, that it is calculated further to promote the ends of justice, in the course of litigation, by affording secondary evidence of deeds and instruments, which may have been lost or destroyed. In the preparation of a variety of legal instruments, the sufficiency of which can be secured only by authentic information concerning acts of the parties or of others, directly or contingently affecting the subjects of such instruments, the records of the Registry Office afford great assistance and security. The Office therefore manifestly presents in itself, independently, great original advantages, and is besides auxiliary to numerous useful purposes in the general interchange of property and pecuniary dealings.

The responsibility of the Register will naturally be estimated by the extent and importance of the objects confided to him. How highly it was rated by the Legislature may be presumed from the strict and very particular provisions originally made for the proper administration of the Office.

Sect. 1.

By the Statute of the 6th of Anne, cap. 2, it is enacted, that the Office shall “be managed and executed by a fit and able person, or his sufficient deputy, such person to be from time to time appointed by her Majesty, her heirs and successors, and to continue in the said office for so long time as he shall faithfully and honestly demean himself therein.” Under this Statute, the Register is sworn truly

Sect. 8.

“and faithfully to perform and execute the office and duty that is directed and required by Act of Parliament, in registering Memorials of deeds, conveyances and wills within this kingdom, so long as he shall continue in the said office;” and it is required, that “when and as often as he shall appoint any Deputy to execute the office, such Deputy is to take the same oath.” Every Register is required to enter into a recognizance, with two or more sufficient sureties, to be approved of by the Lord Chief Baron, or some of the other Barons of the Exchequer, in the penalty of 20,000*l.* conditioned for the true and faithful performance of his duty in the execution of the office, the same to be kept in the office of the Remembrancer of the Exchequer, amongst the Records of the said Court, and to become void at the end of three years after the death or surrender of any Register, provided in that period no misbehaviour appears to have been committed by such Register in the execution of his office. The amount of this security, upon a comparison of relative

Sect. 9.

value

value in the year 1708, and at present, taken with the conditions, constituted a liability, which, though excessively disproportioned, as it would seem, to the limited emoluments of the office, as prescribed by the same Statute, must be presumed to have been held not more than adequate to the trust reposed. As a further security to the public, the above Statute enacts, "that if any such Register, or his Deputy, shall neglect to perform his or their duty in the execution of the said office, according to the rules and directions in this Act mentioned, or commit or suffer to be committed any undue or fraudulent practice in the execution of the said office, and be thereof lawfully convicted, such Register shall forfeit his office, and pay treble damages, with full costs of suit to every such person or persons as shall be injured thereby." It further provides, that upon the death of a Register, and until a successor be appointed, his executors or administrators, together with his sureties, shall appoint a proper person to execute the office, for whose demeanor the security given for such deceased Register shall be answerable, and who shall act under the said official oath, and the same liability for neglect or misconduct as above mentioned. With a view to the efficient superintendence, and punctual execution of the duties, the Register or his sufficient Deputy is required to give daily attendance, Sundays and holidays excepted, at the office, from ten till four o'clock, "for the dispatch of all businesses belonging to the said office."

REGISTRY OF
MEMORIALS, &c.

Sect. 12.

Sect. 9.

Sect. 13.

Sect. 10.

These are the general provisions that concern the personal execution of the duties by "the Register or his sufficient Deputy." But there is a further clause in the Statute of the 6th Anne, which it may be proper here to notice. It enacts that all Registers, and also all persons in trust for whom such office shall be granted, shall be resident in Ireland at least nine months in every year; and that if any such Register or person shall be absent from Ireland for more than three months in any one year, except in case of sickness, requiring his going, or staying, beyond the sea for the recovery of his health, the office shall be void. In a Memorial which the present patentee, Viscount Kilwarden, has delivered to us, and of which a copy will be found in the Appendix, his Lordship has suggested a reason of a political nature for this clause; contending that it is not to be considered as designed for the purpose of compelling a personal attendance of the Register.

Chap. 2, sect. 19.

App. N^o 11.

Similar restraints upon the absence of all persons holding offices in Ireland may be traced in provisions of the Irish legislature at a very remote period; and in recent times financial regulations have been directed to the salutary principle of encouraging the residence in this country of persons deriving emoluments from official situations in it. The intention of the Legislature, however, in adhering to such a principle on the occasion of the institution of this office, could not but be fortified by a consideration of the provisions absolutely requisite for the effectual discharge of its peculiar duties; which rendered it most material to secure the promptest responsibility of the Register in person. The positive enactment of the clause referred to seems adapted to this object. Under a different construction of that clause the provisions of the Statute would appear quite insufficient; since the permanent or unlimited absence of the Register, or his residence at such distance or place as might preclude his immediate interference (he alone having power to depute a person to execute the office, or, there being no Deputy, to execute it himself) might, under very possible circumstances, have the effect of defeating rights which are made to depend on the punctual and immediate discharge of the Register's duties; inasmuch as the instrumentality of a competent officer is absolutely essential to give a complete validity and priority to the acts of parties required to be registered, according to the moment at which the registry of such acts shall be demanded; and the attendance of such an officer at every moment within the appointed office hours becomes therefore manifestly indispensable. Yet such attendance in the person of the Deputy (independent of the fatalities of death or illness) might cease at his option; for the Statute does not exact any security from, nor attach any personal responsibility, as for attendance, upon the Deputy; and in the case supposed, were the Register so absent under an unrestrained permission, or a dispensation from all personal attendance, the functions of the office must be suspended. It is evident that neither under any general construction of the Statute, nor of the tenure of the office, has the Register been considered as enjoying a free option of so absenting himself, for any cause whatsoever, even for the limited period of three months, to which the terms of the above enactment might perhaps seem to extend an indulgence; for we find that on the first occasion of a Register's absence

40 Geo. III.
chap. 43.

REGISTRY OF
MEMORIALS, &c.App. N° 15, Q. 57,
58.App. N° 19, Q. 195
to 197.

App. N° 5.

App. N° 1.

App. N° 10, Q. 5.

Ibid.

Ibid, Q. 1.

a licence passed under the Great Seal to warrant it; and that on subsequent occasions of absence for the recovery of his health, the same authority, always limited to a period of three months, was procured by the Register. This practice was strictly observed in the year 1784, when a similar licence was granted to Mr. Burton, the patentee, on a medical certificate. His successor, the Right honourable George Ogle, obtained permission from Government, as we learn from the evidence of his deputy, to absent himself from Ireland on account of ill health, on one occasion: the only other instance of his absence was for the purpose of attending his parliamentary duty; and it does not appear whether, or not, an express permission was obtained upon that occasion. We find also, that although very generally performed by deputy, the office has been executed from time to time, occasionally, by the Register in person. It appears from an inspection of the ancient Registry Books, that the first patentee acted sometimes, but not often, in person; and that he had always a deputy. Mr. Burton, who held the office from the year 1749 to the year 1784, officiated more frequently; and it does not appear from the Registry Books that any Deputy was employed during some short intervals within this period. His successor, Mr. Ogle, also officiated solely on three several occasions. Taking into view the nature of the office of Register, the provisions established, and the obligations entered into for its management and execution, we cannot but be of opinion that it was meant to be an effective office, in the person of the patentee himself; and that the power of appointing a deputy was given to meet the necessity, too obvious not to be foreseen, of providing for the constant certain presence of a competent person under any casualties that might happen.

Having traced the apparent object and effect of the existing parliamentary provisions, it becomes necessary to advert to the particular circumstances under which the Office was granted, and devolved, to the present Patentee, as being intimately connected with its present condition, and the official capacity of the present Register. His Lordship came into possession on the death of Mr. Ogle, in the year 1814, under a reversionary grant made in the year 1795 to his Lordship and his late father, the Right honourable Arthur Wolfe, at that time His Majesty's Attorney General in Ireland, and who lost his life a few years afterwards, when Lord Chief Justice, having been in the mean time raised to the peerage.

Lord Kilwarden has represented in his evidence that this grant was intended in remuneration of his father's services.

Whatever opinion may be entertained of the nature of the Office under consideration, the manifest incompatibility of the high station and office of Attorney General in Ireland, with active ministerial duties in an inferior Office, is a sufficient indication that it could not have been in the contemplation of his Lordship's father to accept, or of the Crown to confer on him the office of Register of Deeds, otherwise than as an office in which his personal attendance would be dispensed with. Such we find to be Lord Kilwarden's understanding of the nature and intent of the grant, and of his tenure of the office derived from that grant.

His Lordship was sworn into office on the 14th of September 1814. With the exception of signing Deputations, the appointment of a Clerk to check the receipts of the Office wherein his Lordship participates, and giving some general occasional instructions to the Deputies, it does not appear that Lord Kilwarden has done any official act, having regarded and held the Office as a sinecure, committing the management and execution of it altogether to Deputies.

The entire administration of the Office was indeed virtually assigned by his Lordship, prospectively, eight years before he succeeded to it, under conditions which it is important to notice, because, although it should be urged that they did not influence the management or practice of the office before his accession, it will be found that certain stipulations subsequently entered into, under an award consequent upon the assignment, have in effect transferred the office to other hands; and the obligations of this award are expressly urged to justify the continuance of official charges confessedly not conformable to provisions of the statutes. We are unwillingly, but necessarily led to refer minutely to an agreement attended with such results; and it will be soon eventually how indispensable a particular notice of its conditions is to convey an intelligible exposition of the actual state of the Office, and the relative situation of the Officers.

In the year 1799, some few years after the reversionary grant to the present Patentee, Mr. George Moore succeeded his father in the capacity of deputy to Mr. Ogle. In the year 1806, certain articles were entered into between Lord Kilwarden, in whom, solely, the reversion was at that time vested, and Mr. George Moore; whereby his Lordship agreed that, in the event of his surviving Mr. Ogle, he would, on succeeding to the office, commit the entire management and conduct of it to Mr. George Moore, with power to appoint all the clerks and assistants; and that he would grant and execute to him such deputation, or other sufficient appointment, as should authorize him "to take and receive all the fees and emoluments to be received in the said Register's office, both Register's fees and Deputy's fees, and all other fees whatsoever, that may be received therein, to the proper use of him the said George Moore." His Lordship also bound himself to appoint such person or persons, as Mr. George Moore should think fit, to act as Assistant Deputy or Deputies, (he being responsible for their conduct,) "in order to give Mr. George Moore the opportunity of following such other avocations as his time might permit." In the event of Mr. George Moore dying in the life-time of Lord Kilwarden, the further singular proviso was added, that "all benefit and emolument of the Deputyship should survive to his personal representatives;" and that, on that contingency, Lord Kilwarden should execute a deputation to the same effect "to such person as Mr. George Moore should have nominated by will or other instrument; or, in default of such nomination, to his personal representative." It was a further stipulation, that if Lord Kilwarden should sell, or surrender in favour of another, or otherwise dispose of the office, or the reversion of it, such sale, surrender, or disposition, should be subject to all the conditions of that agreement; "it being the declared intention thereof to secure to Mr. George Moore, his executors and administrators, all the advantages and emoluments of the said place of Deputy Register, under the terms therein expressed, during the life of Lord Kilwarden, or the life or lives of any person or persons holding the said office, by virtue of any disposition made by Lord Kilwarden, or any person deriving under him." Other conditions were added, in the nature of indemnity, to secure to Mr. George Moore and his personal representatives, the value of the employment of Deputy Register, in the event of any transfer of the office during Lord Kilwarden's life; and to provide compensation to them, in failure of the effectual performance of this agreement, for any other cause than the act or default of Mr. George Moore, or his nominees, or personal representatives. To secure the fulfilment of these conditions, Lord Kilwarden executed his bond for the sum of 6,000 *l.* with warrant of attorney, whereon judgment was entered.

The consideration for which Lord Kilwarden consented to enter into the agreement referred to, appears to have consisted of an actual payment of one thousand guineas by Mr. George Moore, and his undertaking to pay, out of the fees and emoluments to be received by him, when the agreement should take effect, the clear sum of 500*l.* a year to his Lordship, over and above all expenses attending the office. Under these restrictions and engagements the reversionary grant came into possession in the year 1814.

Some differences having arisen relative to these Articles of Agreement, a deed of submission was executed between the parties, whereby all questions concerning their validity and import were referred to the final award of two members of the bar; providing, that if the Arbitrators should be of opinion that the Articles should be cancelled, they should award "upon what terms the same should be done; and also the fees, salary, compensation, and emolument, which the said Lord Viscount Kilwarden should receive from or out of the said office, or be paid by the said George Moore." As preliminary to this reference, and conditionally subject to the award, Lord Kilwarden executed a deputation to Mr. George Moore; and an undertaking was made by the latter to provide sureties to join in the recognizance required by the Statute from the Register, on the faith of his Lordship's fulfilling the award of the Arbitrators, "and granting and committing to Mr. George Moore the full and entire management and control of the office, in appointing all clerks and assistants," with one exception.

The award upon this submission, of which a copy will be found in the Appendix, App. N° 2, recites that it had appeared to the Arbitrators that both the parties to the Articles of the year 1806, were at that time "wholly ignorant of the actual income of the office, and the fees, and sums of money usually received by the under-deputy and head clerk."

REGISTRY OF
MEMORIALS, &c.

"clerk thereof;" and then declares those articles null and void on certain terms' conditions and restrictions. The import of these terms appears to be a confirmation of the deputation previously executed to Mr. George Moore, and of all rights or powers which the said articles professed to convey concerning the deputation, during the life of Lord Kilwarden, with the further privilege (not expressed in the articles) to Mr. George Moore and his nominees, or to his personal representative or his nominees, of resigning the office of Deputy at their option, without prejudice to such rights or powers; Lord Kilwarden being bound to execute new deputations of the same tenor and effect, to the further nominees of Mr. George Moore, or his personal representative, (such nominees being fit and competent), as often as such resignation might occur; and, in the event of his Lordship's voluntarily vacating the office, to secure the continuance or renewal of such deputations to Mr. George Moore, or his personal representative, or their several nominees, during his Lordship's life. Under the direction of this award, the judgment of 5,000*l.* upon Lord Kilwarden's bond, executed to secure the observance of the articles of the year 1806, remains in force to guarantee his Lordship's performance of the award; and, on the other hand, Mr. George Moore executed his bond to Lord Kilwarden in the penal sum of 20,000*l.* as an indemnity to his Lordship against any act or neglect of Mr. George Moore, or of any person acting or authorized to act by or in consequence of his appointment or nomination.

App. N° 13, Q. 340.

The distribution of the receipts of the office was appropriated by the award, under the following arrangement:—It was provided that the whole of the profits and emoluments should be received by Mr. George Moore; that a sufficient part thereof should be applied, in the first place, to defray the whole of the expenses and outgoings of the office, with the exception of the remuneration of one clerk, to be appointed and paid by Lord Kilwarden; and of the salaries or remuneration of the deputies or chief clerks, to be paid by Mr. George Moore; that if the surplus of the profits and emoluments actually received by Mr. George Moore, after defraying thereout the expenses of the office, (with the above exceptions) should amount in each, or any half-year to 1,980*l.* Lord Kilwarden should receive the proportion of $\frac{1}{4}$ ths thereof, and the residue should be retained by Mr. George Moore, "as and for his compensation for being, and doing the duty of attorney and first deputy, and for providing the under deputy and chief clerk, and for the sum of 1,000 guineas paid by him to Lord Kilwarden, and for the risk which the said George Moore and the sureties provided by him may run in consequence of being such sureties;" that if the net surplus receipts of any half-year should fall short of 1,980*l.*, and exceed 900*l.*, the latter sum should be retained by Mr. George Moore, and the excess paid to Lord Kilwarden; but if such surplus in any half-year should not exceed, or should be less than 900*l.*, then the whole should be retained by Mr. George Moore.

The award contains one reservation to the following effect; "that it shall be lawful for the said Viscount Kilwarden to appoint a fit and competent person as his clerk, and on his behalf, who, as also the said Viscount Kilwarden, shall have permission and authority to examine and inspect all books, accounts, and papers which shall or may be kept or made out in the said office, in anyway relating to the receipts and disbursements thereof, so as to enable the said clerk to keep or check the accounts thereof, thereby to ascertain, in conjunction with the chief clerk of the said office, the half-yearly amount of the said receipts and disbursements."

App. N° 13, Q. 333.

The restrictions, conditions, and obligations thus intended to be established by the award, which in the usual form has been made an Order of the Court of Chancery, would in fact amount to a transfer of the Office from Lord Kilwarden, with unlimited powers of sub-delegation, to Mr. George Moore, his nominee, or personal representative, during his Lordship's life, leaving to the Patentee no other free power whatsoever than to appoint one clerk, for the specified and exclusive purpose of checking the pecuniary transactions of the Office; with permission also to his Lordship personally to examine all accounts or papers relating thereto, in order to secure his intended participation of the actual receipts in the appointed proportion. It would seem from Lord Kilwarden's evidence, that he considers that he retains the power of removing his deputies, in case the public service requires it. Infringements of the Statutes, however, have not been held to constitute such a necessity; and

App. N° 10, Q. 16.

and Lord Kilwarden states that he conceives it to be obligatory on him to execute deputations to any person or number of persons nominated by Mr. George Moore, his nominee, or personal representative; with the sole qualification that such persons shall be competent to discharge the duties of the office. The option of resigning is left to all such persons without restriction. It would be difficult to point out any real official control to which Mr. George Moore is himself subject, or any sufficient obligation for his personal superintendence: on the contrary, besides the option of resigning, he conceives that under the Award, he enjoys the further option of retaining the deputation, and of following other avocations; and accordingly, he does actively pursue his profession as a Barrister. The two officiating Deputies, Mr. Oliver Moore and Mr. Francis Armstrong, though appointed under the nomination of Mr. George Moore, hold their deputations from the Patentee, not subject to any ascertained control by Mr. George Moore, although he is ultimately responsible for them; whilst the total absence of the Patentee, and the provisions of the Award, preclude the Register himself from exercising any immediate or effectual authority over them. One of these Officers, Mr. Francis Armstrong, who gives no security, expressly states that he does not believe himself bound in any way, either to the Patentee, or Mr. George Moore, to continue in the office longer than he may consider it for his own benefit.

App. N° 10, Q. 19, 20, 21.

App. N° 13, Q. 309.

App. N° 15, Q. 130.

The liability of the Register (or his Deputy in one case) to be sued, which is the sole remedy provided by Statute for injured parties, is generally an insufficient mode of redress. Under the actual circumstances of this Office, during the present method of constituting deputies, without limitation of number, or stipulation of service, and not subject to any ascertained control, such liability appears very inadequate as a protection to the public against the possibility of very serious detriment and inconvenience.

8 Geo. I. c. 19, s. 15.

So far as relates to the emoluments, the Award, besides apparently divesting the Patentee of the power of interference, further than to secure his share of the actual receipts, has given him a direct interest, which the Articles did not convey, in leaving the practice of the Office unrestrained; whilst, as it concerns Mr. George Moore, it has had a double operation; first, in securing to him a concurrent interest in the Office charges, in very nearly the same proportions with the Patentee; and secondly, as we learn from his evidence, in so confirming the custom of the Office, and the supposed right of the Patentee, that notwithstanding the express terms of the statute, and although he styles himself "the directing, regulating, and controlling Deputy," he does not consider himself "at liberty to reduce established charges, or to alter what he found the established usage, in a manner tending to decrease the emoluments of his principal, without his express direction." No direction of such a tendency appears to have been sought, or given. The remuneration of the two officiating Deputies, is derived from a fixed proportion of Mr. George Moore's share of the profits. It is plain, therefore, that the Register and his Deputy, and the assistant Deputies appointed under the Deputy's nomination, have severally, and according to the proportions in which they respectively participate in the receipts, an interest in abstaining from any diminution or limitation of the charges, which are stated to have long ceased to be conformable to the parliamentary provisions established for their regulation.

App. N° 13, Q. 99, 100, 101.

Ibid, Q. 311.

It would be immaterial to the purposes of this Report, to entertain a question of the legal validity of the Articles of the year 1806 (which appear to have been drawn up by Mr. George Moore,) since they have been cancelled by the Award. But with regard to the arrangement under which, in virtue of that Award, the office has been, and is, actually administered; we feel it our duty to observe, that whilst it is advanced as a sanction for continuing a practice, in some points admitted to be at variance with express enactments for the regulation of the Office, it seems very susceptible of abuse in other respects, and ill calculated in principle to secure a strict and pure execution of the duties. The fulfilment of the terms of the Award, appears further to be incompatible with the provisions of the Act of the 49th of George 3d, chapter 126, "for the further prevention of the sale and brokerage of Offices;" which Act was passed subsequent to the agreement under the Articles, but prior to the reference and Award.

App. N° 10, Q. 23.

Although the casual existence of private, voluntary or interested engagements, entered into for the mutual indemnity of persons participating in the profits of an

App. N° 4. office, cannot be deemed a certain or suitable provision for the public security, it may be proper to remark, that besides the bond of 20,000*l.* given by Mr. George Moore, he and Mr. Oliver Moore are joined as sureties in the Register's recognizance, and are therefore, to the amount of their respective obligations, personally liable concerning the due execution of the office. Mr. Oliver Moore states that he received no consideration for entering into this security, but that he had a previous promise from Mr. George Moore that he would nominate him to the situation of a Deputy on Lord Kilwarden's coming to the office. The above engagements are prescribed, and taken in the Award, as a part of the consideration for which Mr. George Moore obtained the powers and pecuniary interests he enjoys in the office; the latter being expressly allotted, amongst other reasons, as a compensation "for the risk which he and the sureties provided by him may run in consequence of being such sureties."

We are not aware that more than one Deputy was appointed or officiated at the same time on any occasion before Mr. Ogle held the office. Immediately prior to his succeeding to it, the official establishment appears to have consisted of one Deputy and six Clerks. Mr. John Moore, who was Mr. Ogle's Deputy, had avocations which prevented his constant presence in Dublin; and the appointment of a second Deputy originated in his occasional absence. In the year 1799 we find two Deputies concerned in the office, Mr. George Moore and Mr. John Griffin; the former appearing to have been appointed to give him a beneficial interest, he being connected with Mr. Ogle; and the latter, who had been several years a clerk in the office, being appointed, at the instance of Mr. George Moore, as the efficient executive officer. Mr. Griffin informs us, that from the time of his appointment to the year 1814, except when he was necessarily absent from illness (which he thinks was for more than two months in the whole period of fifteen years), he acted solely as Deputy, and that no inconvenience resulted from there being only one officiating Deputy, although the business and the number of clerks had increased considerably in that interval. The co-operation of Mr. George Moore during this period is represented to have been confined to the superintendence of the accounts and some of the files of the office, and regulating the Clerks' payments, but to have afforded no material assistance in the business of the office, his attendance being merely occasional. It is also represented, that during this period neither the Patentee nor Mr. George Moore exercised any general superintendence or control; but that the latter generally nominated the clerks. In all that related to the official charges, an undefined discretion was implicitly committed to Mr. Griffin, without restraint or instruction. He states expressly that his attention was not directed to the Acts of Parliament on this subject, either at the time of his deputation, or subsequently. No reason has been offered for thus making the absolute discretion of a Sub-Deputy the sole criterion of official demands in disregard of limitations by statute. The receipts of the office were accounted for by Mr. Griffin to Mr. George Moore, for the use of himself and the Patentee, with a certain reservation for the payment of the officiating Deputy. The general advance in the rates of charge within this period is stated by Mr. Griffin (who, as it is alleged, both fixed the rates and received the charges) to have been most considerable, amounting probably to one-half. Mr. George Moore admits generally, that the introduction and increase of the office charges may be attributed to deputies. The interest such persons have in exaction, where they participate in the claims, and a total absence of control from the principal, have a natural tendency to produce such effects, which an unnecessary multiplication of officers, who are to seek their remuneration from the same sources of emolument, must still further increase. The experience of fifteen years, ending at a very recent period, as appears from Mr. Griffin's evidence, has shown the practicability of discharging the executive duties of the Registry Office by one efficient Officer, with casual assistance; and it has happened since Lord Kilwarden's succession that one Deputy alone has been in attendance, and executed the duties. There are nevertheless now three Deputies; and, under the provisions of the Award, it rests in the discretion of Mr. George Moore to augment the number. Their duties are generally described to be as follows: "The receiving, entering in books kept for the purpose, filing and keeping, all memorials of deeds, conveyances, wills and certificates of satisfactions of mortgages delivered for registry, and the affidavits thereto annexed; the taking affidavits for the purpose of registry, when required; the endorsing certificates of registry on instruments registered, the
" keeping

"keeping alphabetical calendars of the counties, baronies, cities, towns corporate, parishes and townships in this realm, with reference to the number of every Memorial that concerns the honors, manors, lands, tenements and hereditaments within the same, the making, or permitting to be made by the Public common searches, the making and giving out copies of Memorials, the granting negative certificates, the entering certificates of the dissolution of anonymous partnerships, the giving due attendance in the Office from ten o'clock in the forenoon till four o'clock in the afternoon every day, Sundays and holidays excepted; the safe keeping of all Memorials registered, and of the office books."

REGISTRY OF
MEMORIALS, &c.

The proper duties of the Register, which, in his absence, should devolve upon his sufficient Deputy, are minutely detailed and regulated in the Acts before referred to, and will be better understood from the necessary analysis of the services, than from an enumeration of them here.

Concerning official attendance, and the distribution of the executive duties, we do not find that there is any positive agreement, further than a general understanding amongst the Deputies, that each is bound to give his attendance whenever it is requisite; and it is arranged, that actual attendance is always given within the appointed hours by one of them. Mr. George Moore states, that he does not attend for any specific time, but that he gives daily attendance for the greater part of the year. It is obvious, however, that an effective daily attendance must be incompatible with Mr. George Moore's professional avocations on circuit and elsewhere; and he admits, that the uncertainty of his personal attendance principally occasions the necessity of appointing two other Deputies. He describes his duties to be those of a directing, regulating, and controlling Deputy, embracing a general superintendence, and "the receiving communications from Mr. Oliver Moore and Mr. Francis Armstrong, upon all matters that require particular discussion, and regulating them according to established practice." If we except some possible occasions arising from the Stamp Acts, the provisions of the Registry Acts appear sufficiently explicit (were they adopted as the rule of practice,) to preclude the necessity of such discussion. But, little respect appears of late to have been paid to legislative enactments concerning this Office. We find one of the officiating Deputies, Mr. Francis Armstrong, almost entirely unacquainted with the Registry Acts. He states, that he does not consider it necessary to receive authority, or instruction, from his Principal, for any change of official practice, either as it concerns the pecuniary receipts, or the management of the business, as he "believes" the deputation empowers the Deputy to manage the business as he thinks "right;" that he "has attended to the instructions of Messrs. George and Oliver Moore, referring to them where any doubt has arisen, without having himself recourse to the Acts of Parliament; and that his practice, as a Deputy Register, has been directed altogether, and exclusively, by such instructions." With such information, he conceived the statutable fee, which is sixpence, for a particular service, to have been 5 s.; with respect to some other charges, not sanctioned by statute, which he has been accustomed to receive, he states that he "does not know any way of charging, or any principle by which he has fixed such charges, otherwise than that he has always been in the habit of doing so;" and that he "did so under the instructions of the Messrs. Moore." Being requested to explain for what service, or under what colour of right, certain other considerable payments are taken, on occasions when there is no interference of the officer, and no official sanction given; with reference to a particular instance of this kind, where he had received a sum of at least 1*l.* 17 s. 11 d., he observes, that he "does not know what may be the right, but that he charged according to the directions he received." Instances have also occurred in the practice of the other officiating Deputy, Mr. Oliver Moore, as will appear hereafter, of charges of great amount made without reference to any principle. The instances above adverted to, with others that will appear, tend to show how little protection the public have derived from any interference of "the directing, regulating and controlling Deputy," as a check upon official charges. Other duties, for which Mr. George Moore represents that he is more especially responsible, are of the first and most extensive importance; such, for example, as "the regulation and superintendence of the due making all the entries, and the due keeping and completing of all the calendars required by the several Registry Acts, and also the due preservation of the Memorials, and the Books of the Office." For the exact and punctual performance of so great a portion of

App. N^o 15, Q. 6.
App. N^o 12, Q. 313.
344-

Ibid, Q. 310.

Ibid, Q. 311.

App. N^o 7.
App. N^o 12, Q. 199,
392.

App. N^o 15, Q. 26.

Ibid, Q. 27, 28.

Ibid, Q. 29, 31.
supp' Answer after
Q. 56.

Ibid, Q. 71, 73.

Ibid, Q. 58, 39 56.

App. N^o 7.

REGISTRY OF
MORTGAGES, &c.

the duties, a minute, laborious and constant attention would be indispensable; the sufficiency of Mr. George Moore's casual attendance for such purposes, and consequently for the effectual discharge of these duties in his own person, must therefore be doubted: during the period of his deputation under the late Register, one of the duties above mentioned, that of regulating the due making of all the entries, seems to have been ineffectually performed, many necessary entries having been omitted. Mr. George Moore, however, may be deemed to have acted usefully in some internal arrangements of the office; and by his intelligence and experience, the probability of inconvenience, from the delegation of the executive duties to less competent hands, has been in a considerable degree diminished. But, upon the whole, the situation of Deputy Register, as held by Mr. George Moore for the last twenty years, with reference to the actual discharge of the duties, cannot but be considered as approaching to a sinecure.

Mr. Oliver Moore claims to fill two capacities:—The first is that of an "attending and charging Deputy;" the second, that of head Clerk. The services of the latter, it is contended, are extra-official. His functions in the former capacity are described in his return to be in part the same as those of Mr. George Moore, and generally to comprize all acts incidental to "attendance on the public in the execution of the office." These he performs with the co-operation of Mr. Francis Armstrong, who is styled Assistant Deputy, and Assistant head Clerk; but who states that he does not know any distinction between a person so styled and a Deputy; being himself empowered and accustomed to act in all respects as a Deputy.

With respect to the attendance actually necessary to be given on behalf of the Register, it is stated that the two officiating Deputies are generally present for most part of the office hours, and are frequently fully occupied from half an hour to an hour, at different times of the day. It has been already mentioned that Mr. George Moore pursues the profession of a barrister. Under an agreement with him, his nominees, the officiating Deputies, are actively engaged as solicitors, and transact professional business in the Registry Office; some portion therefore of their attendance must be supposed to be given for that business, and not to be devoted to official duty. This arrangement, which seems to suppose the possibility of a concurrent attention to public and private business by the officiating Deputies, appears very objectionable. The appropriation of a public office to private purposes is an undue indulgence; and one which, with whatever forbearance it may have been used, could be conceded in few offices with less propriety than in the Registry Office. In consequence of it, persons not engaged in the duties of the office are permanently employed in it; other clerks occasionally attend there; and besides the casual visits of clients, there is no actual limitation of the number of persons who may be introduced and retained in the Registry Office for the professional business of the officiating Deputies. The custody of records and official documents, with unrestrained access, has been committed to a professional clerk; and, on the other hand, the Office Clerks have been employed in the professional business, and paid accordingly. Such an intermixture of occupation, with its incidental circumstances, seems ill suited to the system of undivided attention, regularity, and individual responsibility, which ought to prevail in a public office of such important duties. The periods of most active duty in the Registry Office bring also the greatest pressure of legal business; whence it seems impossible that the duties should be effectually discharged by law-practitioners, without providing more officers at an increased expense than would be requisite, if their attention were wholly given to the public service; or, without permitting the objectionable practice of transacting the private business in the Registry Office during the appointed hours, when the Officer's attendance cannot be dispensed with. The unremitting duties of the Registry Office are peculiarly incompatible with other occupations: In suggesting, therefore, an efficient establishment, whenever the occasion for any new arrangement shall be considered to have arisen, we recommend that no person acting in the Registry Office should be permitted to follow any other avocation.

The personal services of the Deputy in former times extended to minor, though not unimportant details of the business; such as the making of certain entries in the books and searches. At present, the Deputies' employment, besides the general arrangement of the Office, is for the most part confined to attendance, and official acts

acts which cannot be performed by clerks; duties which, as well as the responsible one of Superintendence, have become more extensive of course with the influx of business, though not to such a degree as necessarily to preclude attention to subordinate branches of the Office.

REGISTRY OF
MEMORIALS, &c.

The increase of the business of the Registry Office seems to have been rapid, and with few exceptions progressive from its commencement: some estimate of this may be formed from the following Statement of the number of Memorials entered in successive periods of twenty years.

There were entered in the Office	Memorials.		
between 1708 and 1728	- 39,543		
between 1728 and 1748	- 50,605	{making the Total Number then on Record}	90,148
between 1748 and 1768	- 83,516	- - -	173,664
between 1768 and 1788	- 92,545	- - -	266,209
between 1788 and 1808	- 147,828	- - -	414,033
between 1808 and 1819	- 94,683	- - -	508,716

The number of Registries in the last twenty years is fourfold the number of those made in the first twenty years of the Institution, and there are now upwards of half a million of Memorials on record.

Of the searches, which form a very important and laborious department, and contribute proportionably to the quantity of business, it is not possible to arrive at any satisfactory estimate. A mere comparison of their numbers, if ascertained, would not afford any certain criterion of the quantity of labour in this branch of the office, as may sufficiently appear from the difference of the time requisite for completing different searches. Mr. Oliver Moore states, that the time necessarily occupied in a search varies from a quarter of an hour to weeks; and he mentions one instance of a clerk being employed during office hours for more than a month in completing a search; though this, he admits, was an extraordinary instance.

App. N^o 14, Q. 70
to 73.

The difficulty and labour of effecting searches, unless counteracted by new arrangements, must increase with the great multiplicity of Registries; but the increase of the number of searches does not necessarily keep pace with that of the Registries: on the contrary, we find in the last three years a gradual diminution of the total number of searches made in each year; and besides the difficulty of truly appreciating the proportion of labour incident to this duty, it would be fallacious in this Office, where the extent of the transactions may be expected to fluctuate with circumstances depending on the condition and general relations of the country, to attempt to form a just estimate of the probable quantity of business that may occur at any stated period. In some respects a decrease of the business cannot be contemplated, in others it is possible a diminution may occur, especially if it be found practicable to lessen the necessary labour by some modifications of the system of the Office. Enough has been stated to show the necessity, under all circumstances, of constituting two competent effective Officers; and there seems no reason to doubt the sufficiency of that number to manage and execute the duties, so far as relates to the authentication of official acts, and the active superintendence and general arrangement of the office; and as these individuals may be considered to constitute in themselves the permanent official establishment, since the number of clerks to be provided by the officers and paid rateably, must vary with the fluctuation of business, it is unnecessary to offer any conjecture as to the further possible extent of the official business, in proposing such an establishment. Both these persons should be alike empowered to do all official acts; but it is probable that the business may be expedited by some general arrangement for allotting to each a certain department, presuming that the expediency of requiring the constant regular attendance of both, (except upon occasions of indispensable absence, with proper permission,) shall be admitted and enforced. The duties, indeed, seem naturally divided into two general heads, the Registries and the Searches; the former comprising all those acts, entries and minor official arrange-

App. N^o 14, Q. 473.

ments, which are essential to the faithful perfection and preservation of the Records, and the authentication of the Registries; the latter, the effecting and certifying Searches, together with the preparation of the Indexes, and all entries and references whatsoever (subsequent to the completion of the Record) by means of which the Searches are to be effected.

The object of each of these departments is, in appearance, simple. The material points for consideration, in adapting a system to them, consist almost entirely (if we except the custody of the Documents) in the means of securing the fidelity, perspicuity and permanence of the Records, and at the same time of affording the greatest facility of certain reference to them; but, from a review of the minute regulations established and necessary for these purposes, and of the practice under them, in its very extensive application, it will be seen that much labour and great responsibility are inseparable from some of the duties, by reason of their complexity and legal consequences.

With a view to afford some explanation of the nature of the Duties, and of the services incident to them, we shall observe on them under the general heads above mentioned.

REGISTRIES.

MEMORIALS are required to be written on vellum or parchment, directed to the Register, and to contain the date of the instrument, and the names and additions of all the parties and witnesses thereto. They are also required to express the honors, manors, lands, tenements or hereditaments, with the counties, baronies, cities, towns corporate, parishes, townships, hamlets, villages, precincts, where such honors, &c. are situate, that are in any way affected by any instrument, in such manner as the same are expressed in such instruments, or to the same effect.

When a Memorial is offered for registry, one of the witnesses to the execution of the deed or instrument is required to prove, by affidavit, before the Register or his Deputy, (except where affidavits are taken in the country), both such execution and the signing and sealing of the Memorial, and the day and time of the delivery thereof to the Register or his Deputy, which affidavit the officer is required to take and file, and enter in a book to be kept for that purpose. He is also required to file and enter each Memorial in the order of time in which it is brought to the office, and to number and enter in the margin of each Memorial the day of the month and the year when it is registered; which particulars are also to be entered in the margin of the Registry Books. It is his duty to endorse and sign upon every deed or instrument, a certificate of such Registry, expressing the same particulars; and also in what book, page and number, the Memorial is entered; and it is provided by the statute, that each Certificate shall be taken and allowed as evidence of a Registry in all Courts of Record. By the 16th sect. 6 Anne, chap. 2, the 18th sect. of the 8th Anne, chap. 10, and the 3d sect. of the 25th George III, chap. 47, Registries were authorized, in certain cases, upon affidavits, without the production of the deeds; but the Stamp Acts having imposed on the Registry Office the duty of examining and ascertaining that all instruments concerning which Registries are demanded are stamped according to law, those provisions, so far as they dispensed with the production of the deeds, have become of no effect; and every deed or instrument must now necessarily be delivered with the Memorial, or transmitted to the office with it, and the affidavit appointed to be received in such cases. In the latter instances, which are not infrequent, it rests entirely on the Officer's fidelity and accuracy to fix the date of the receipt, and consequently of the Registry, according to the time of the actual arrival of the Memorial in the office.

By the present practice, the mode of effecting a Registry under these regulations is as follows: Each deed, with its Memorial, when the affidavit has been sworn before the Officer, or is transmitted ready sworn in manner directed by the Act (in which latter case the time of the receipt is marked upon the Memorial by the Officer,) is delivered to a clerk, who enters in what is called a day-book, the names of the parties and the agents, with the fees of the Register. The Deeds and Memorials are then delivered to another Clerk, who endorses the certificates on the former,

55 Gen. III.
chap. 79.
55 Gen. III.
chap. 56.

App. N^o 14, Q. 419.
App. N^o 93, Q. 1
& 13.

former, and returns them to the Deputy for signature, and gives the Memorials to another Clerk, to arrange in bundles of 100 each. These are next delivered to the Clerk, whose business it is to enter from them the denominations of lands, into what is called the Lands' Denomination Day-book; which being done, he hands them over to the Copying Clerks to be transcribed, whereby (when effected), the Registry becomes matter of complete official record, the subsequent entries being all in the nature of references to these transcripts, for the purpose of facilitating searches.

In this process a Memorial has five transitions from one Clerk to another, before the record of it is completed. To avoid delay, the Officer's Certificate of Registry is endorsed on the deed and signed, and delivered with it, before the specific entries required to be expressed, and actually expressed in the Certificate, are really made, and before an entry of the Memorial is to be found in the books of the Office. This anticipation of the actual entries, has been attended with great inaccuracy, for upon a comparison, in various instances casually selected, we have found no one instance of agreement between the numbers inserted in the Certificate, and the numbers of the books and pages where the Memorials are copied; but such inaccuracy does not appear to have prevailed prior to the year 1790. An artificial check has been recently devised by Mr. George Moore, to secure an eventual correspondence between the Certificates and the numbers of the page and book, where the entries therein referred to should be regularly made. This expedient seems effectual and convenient, in preventing the postponement of the Certificates, and the return of the deeds, which a strict adherence to the prescribed process would require, until all the entries expressed in the former should have been really made; but it is open to some objections: besides rendering the Certificates in some degree fictitious, additional labour is bestowed, and artificial entries merely necessary, but requiring the greatest exactness, are necessarily created to procure an ultimate correspondence between the entries that constitute the official record, and the Certificates; these appointed entries being in the mean time permitted to be dispensed with, and therefore liable not to be finally effected with certainty or punctuality. Formerly, omissions of this kind appear to have been by no means unfrequent; and many Memorials still remain unentered. Great arrears also formerly occurred, and although it is stated that there has been recently more exactness and dispatch in these respects in the Copying Department, there is still a very great arrear.

App. N^o 14, Q. 439.App. N^o 19, Q. 151.
156.App. N^o 14, Q. 445.

The particulars which suggested the above expedient, are not of any material use in the Certificate; the object of which is principally to secure the benefit of a Registry from the moment of its being duly demanded; an object, the importance of which may be estimated by recollecting, that priority in the time of registering an instrument in Ireland, gives it priority of operation, both at law and in equity: as a means of reference they seem now quite superfluous; for if the improbable case be supposed of a person possessing a Certificate, which it will be remembered supposes equally the possession of the deed whereon it is endorsed, finding occasion to consult the Memorial, the other contents of the certificate would be quite sufficient to enable him to procure a reference to it.

A complication of books and entries is to be peculiarly avoided in this office. It is certainly desirable for public convenience and on other grounds, that deeds should not be unnecessarily detained, or the granting of certificates delayed; but it is also important that an official document, to which much value and responsibility, as it concerns the public and the Officer respectively, are attached, should be ascertained to be strictly conformable to the facts it professes to vouch. Applying these remarks to the regulations and official practice concerning the registry of Memorials and the Certificates thereof, we submit that a more direct and consistent course might be adopted to effect the former, and authorise the latter, and possibly at the same time contribute to facilitate the more difficult and laborious duties of the office.

We would suggest that the first entry, immediately on the receipt of each Memorial, should comprise an abstract of the Memorial, so far as relates to the names of the parties and the lands, with the number of the Memorial, and the general nature of the instrument, and be made under the date of the day of its receipt, in a proper book (which may be called an Abstract Book) in distinct columns under corresponding heads, according to the form marked (A.) in the Appendix. The time of receipt

App. N° 14, Q. 39
to 35.

receipt, and the number of the Memorial, with the number of the book and folio where this entry is made, should appear on each Memorial.

Ibid, Q. 420.

It will be seen from the evidence, that, in the present practice, before a Certificate is granted, there is no certain comparison, and where there is any comparison, that it is partial, between a Deed and its Memorial; and further, that prior to this important act of the Officer, there is not any entry of the contents of the Memorial in the Office Books. The entry we have proposed would supply this latter defect, and if it were the appointed duty of the Officer, before certifying, to compare each such entry with the corresponding deed or instrument, these particulars being found to agree, there would be a sufficient and satisfactory ground for his Certificate, which he should then, and not before, be at liberty and bound to give, omitting the number and page of the Registry Book, as now required. It should, however, be the positive duty of the Officer subsequently to ascertain that each Memorial is duly copied, and then to insert in the proper column of the book we have alluded to, the page and number of the Registry Book in which each Memorial is so ascertained to be copied. This Book, if accurately kept, would serve several useful purposes: 1st, It would form a check upon the correspondence of Memorials with the deeds in those heads which are contained in the Book; 2dly, It would contain an original, prompt and sufficiently copious entry of each Registry, to support and authorize the Officer's certificate without inconvenient delay, or reliance on artificial checks or entries; 3dly, It would secure the certain entry of each Memorial in the Registry Books; and 4thly, It would constitute an authentic Repertory, exhibiting at one view, and collectively, all the heads which it is necessary to ascertain in prosecuting searches, and all the particulars required to be transcribed into the Books of Indexes appointed to be kept for that purpose. In the proper place we shall suggest the use to which this Book may further be applied in abridging the labour of references in searches, besides its utility towards authenticating and perfecting the Registries and Certificates.

G. Act, chap. 2.
sect. 7.

The present method of compiling the Registry Books requires to be noticed here. Under the provisions of the Act, each Memorial is directed to be entered in the Registry Books, in the same order in which it comes to the Register's hands. If the Memorials were copied into a book in such order, only one clerk could be employed in copying, which would create incalculable delay; and to use more than one book at the same time, would interrupt the required order of the entries. To preserve this order, and prevent delay, the practice is to deliver to each copying clerk, from time to time, 100 Memorials, which he copies on loose skins of parchment; and when 600 Memorials are so copied, that being the number of Memorials allotted for each book, and the pages they are to occupy being previously assigned by means of the artificial check before alluded to, they are collected and compiled according to their numbers, and bound together, and become a book. Pending the completion of this work, which it is stated occupies from one to four months, or perhaps longer, the Memorials remain in the custody of the clerks, each of whom gives a receipt for the Memorials delivered to him to another clerk; but during the whole of this period, the Memorials are removed from the eye of the officer; and are not considered as returned to his custody until they are put upon files, (also by a clerk), each file containing 300 Memorials. The convenience of adhering to the numerical series of the Memorials, and the order of time in which they are received, in the construction of the Registry Books, and the impossibility of making the labour of copying keep pace with the influx of Memorials, if it were attempted by one clerk with only one book, render some such arrangement as that which is established for the formation of these books indispensable. But we think it evidently admits of, and demands, more dispatch than is at present used; and that the consequences which might ensue from so long an intermission of the Officer's attention to the original documents, and the perfecting of the Records, require to be carefully obviated.

The Sub-Commissioners of Records, in their report on this office, have stated that many original Memorials are lost; and the evidence of Mr. Griffin would seem to confirm this statement. He says that whilst he officiated as deputy, it happened repeatedly that losses of Memorials were discovered, and he cannot take upon him to state that such Memorials had been copied into the Office Books. He imputes this serious irregularity to "the carelessness or drunkenness of clerks;" and adds that he believes searches have been erroneous in some instances, owing to defects in the entries, an inevitable consequence of such a cause. One of the clerks has deposed that

App. N° 18, Q. 18
to 22.

Ibid, Q. 162.

App. N° 19, Q. 149.

that he has known upwards of 2,000 Memorials unentered at one time, but that this arrear occurred many years ago, soon after Mr. Ogge's succession to the office, but prior to Mr. Griffin's acting as deputy; and he states that the arrear now is less than it was formerly. Nevertheless, we find that, at the time of our latest enquiry, 2,161 Memorials were unentered. It further appears from the evidence, that during the whole period between the years 1786 and 1814, instances of Memorials remaining unentered have been occasionally detected, and that such omissions are still very frequently discovered by the searching Clerks. This neglect of duty is attributed partly to the insufficiency of the payments to the copying Clerks, and partly to dishonest motives. The first of these inducements to such neglect, though by no means excusing it, seems to have been not unreasonably alleged in some instances. The individual to whose evidence we now refer, served in the office more than 30 years, and appears conversant with all its details, though now incapable, from debility, of those active duties which require not only skill and experience, but a certain share of bodily strength, in referring to unwieldy books and files. To him, with one associate, is now confided the very useful duty of checking the actual and correct entry of the Memorials, by comparing the transcript books with the Memorials, for which service, one which, it will be recollected, Mr. George Moore represents as comprised in his personal duties, he is allowed a guinea a week. On examining the Registry Books we have observed several instances of Memorials entered out of their proper order. Prior to Lord Kilwarden's accession, no means were established for checking the actual entries of Memorials; and it appears from the evidence, that some of those which have been discovered not to have been entered, were not even marked by the Clerks as entered; others, however, of such Memorials were so marked. These omissions and inaccuracies afford sufficient proof that, in the period alluded to, this duty was but superficially regulated. Credit is due to the present officers for introducing the custom mentioned above, of directing a comparison of the Memorials with the copies; although it will be seen from the evidence, that the comparing Clerks are not required in any way to certify such comparison to the officer, and the arrangement is still perhaps not sufficient to afford a perfect security against omissions. It seems probable that the safety of the Memorials would be better provided for, and the work of copying expedited, and its accuracy ensured, if the officer himself were to give out to the copying Clerks, from time to time, perhaps daily, such number of Memorials only as would afford constant occupation; and to require them to be returned punctually, with the Copies, when completed; which latter it would then be his duty to arrange in the form of a book, taking care to complete the original entry which we have recommended in the Abstract Book, by inserting opposite to each such entry of a Memorial, the page it would thus actually fill in the Registry Book so in progress of formation. The custody of the Memorials, and the Copies, which constitute the Records of the Office, is too important a duty to be committed unnecessarily to any person but a responsible officer; and it is especially material to secure, in the first instance, and as promptly as possible, the perfection of the record. The method here suggested of conducting this service, would fix upon the officer an efficient responsibility, besides bringing his attention more constantly to the progress of this branch of the business, which we think should be executed as a distinct department, by certain Clerks exclusively employed as copying Clerks, and of whom a sufficient number should be retained, in order to prevent arrear, so far as the unavoidable fluctuation of business will admit of, the number being fixed at an adequate permanent establishment. We recommend that the copying of the affidavits annexed to the Memorials, may be dispensed with, as unnecessary in the transcripts.

The process of Registry being thus completed under the immediate superintendence of the proper officer, the next object would be to provide for the perfecting of the Indexes in the department of the

SEARCHES.

THE 7th sect. of the 6th Anne, chap. 2, enacts, that the Register shall keep an Alphabetical Kalendar of all counties, baronies, cities, towns corporate, parishes and townships, with reference to the number of every Memorial that concerns the honors, manors, lands, tenements or hereditaments therein respectively, and of the names of the parties mentioned in such Memorials. Separate Registry Books and corresponding Indexes are required by the 13th sect. of the 21st and 22d Geo. III. chap. 46, to be kept for the registry of certain partnership deeds, and the entry of the

REGISTRY OF
MEMORIALS, &c.

App. N^o 14, Q. 448.
App. N^o 15, Q. 151
to 159.

Ibid. Q. 1.

Ibid. Q. 141.

Ibid. Q. 162.

Ibid. Q. 170.

dissolutions of such partnerships. The purpose of these Kalendars or Indexes is to enable the officer to perform the further duty enjoined by the Act which established the office, namely, "that he shall, as often as required, make searches concerning all Memorials that are required, and give certificates concerning the same under his hand, if required by any person." The 2d sect. of the 8th Geo. I. chap. 15, and the 2d sect. of the 25th Geo. III. chap. 47, appoint further and specific regulations respecting Certificates of searches of a particular description, called Negative Searches.

As the ultimate object of all the official arrangements, is to establish the means of affording the Public certain and authentic information concerning all acts which are made the subject of Registry, and this is to be derived solely from searches, guided by the references which the indexes supply, the importance of their accuracy and sufficiency is manifest. It will be easily supposed that the number of parties' names and denominations of lands, contained in more than half a million of Memorials, is beyond calculation; besides the similarity of names, and frequently the occurrence of the same names, representing different lands, or parties; and the multiplication of acts of various parties concerning the same lands, by the transmission and transfer of property in the lapse of time, are inevitable sources of complication, which add equally to the necessity and the difficulty of keeping up a correct and perspicuous series of indexes in such simple form as shall lead with certainty and dispatch to the final object of every search, namely, the selection of such documents as are essential, without useless reference to others. From the multiplicity of references principally arises the growth of labour incident to this service.

The above-mentioned provisions have been so far observed, that Indexes, (or Kalendars,) have been kept, referring to both the appointed heads, of parties' names, and denominations of lands, formed of two classes of books. The original parties' names' indexes, down to the year 1785, now consists of a single series of parchment books, wherein the parties' names are arranged in order, according to the initial letter only of each name; but a new set of paper books containing indexes in dictionary order, and not limited to yearly periods, was compiled from the original books down to the same time, by Mr. John Moore, when Deputy to the late Register. These, however, are contended to be private property, and removable from the office at the discretion of his son and executor Mr. George Moore, at present a Deputy. This claim will be a subject for observation hereafter.

The Indexes of parties' names from the year 1785, are comprized in a threefold series of books, called the Parties' Names' Day Books, the Parties' Names' Yearly Books, and the Parties' Names' Parchment Books. In the first of these books the number of each Memorial, and the names of the parties (confined to one grantor and one grantee) are entered. The parties' names' yearly books contain, arranged in alphabetical order, all the grantors' names, with the name of one grantee in each case annexed, that occur in the registries of one year, which are entered from another day book, called the Land's Denomination Day Book. These yearly books are in the first instance made up in the manner of skeleton books, in dictionary order; that is to say, a book is prepared in which every known surname is inserted in such order, with a space allowed under it, in anticipation of its possible occurrence, connected with a registry, in the course of the year. As often as each surname occurs, the number of the Memorial and the grantee's name found annexed to it, in the day book, are entered, omitting a repetition of the surname, in the adapted space in the skeleton yearly book. The entries thus transcribed are checked by a comparison with the copies of the Memorials in the registry, or transcript books; and the number and page of the books where each Memorial is copied are then added to the previous entry in the yearly books of each (grantor's) name occurring in such Memorial. The parties' names' yearly books, subsequent to the year 1785, thus severally comprise, in dictionary order, the names of all the individuals whose acts are registered in each year, with the number of each Memorial, the name of one grantee, and the number and page of the registry book where such Memorial is copied, set opposite to each grantor's name contained in such Memorial; together with those other names, originally inserted, to which no corresponding names may have occurred within the period of the book, and which are consequently superfluous. At the expiration of three years, generally, the entries in these yearly books are transcribed on parchment, and bound up in what are called the Parchment Parties' Names' Books; which are similar to the original parchment parties' names' books for

for the period prior to the year 1785, but much more perfectly arranged, the names being here classed in dictionary order, and those which correspond in both christian and surname being placed in immediate succession. The parchment books are now, in fact, compilations of transcripts of the yearly books, with no other variation than the omission of the superfluous names, and such transposition as the arrangement by christian names may require. The parchment books, usually comprising three years, but in some few instances more, consist of one or more volumes; each, where they exceed one volume, containing the same portion of the alphabetical index for each year so included. Until the parchment books are thus compiled, searches on parties' names for the current period of three years are made in the yearly books. The use of these books, after the compilation of the parchment books, which are the only perfect series of parties' names' books from the commencement of the institution, seems to be, that they might supply the means of repairing any imperfections arising from long use in the parchment books. The accuracy of the entries in these last books is checked by a subsequent comparison with the yearly books, from which they are transcribed.

Whilst the introduction of superfluous names in temporary entries, and the repetition of those particulars which are essential, add nothing to the probability of ultimate accuracy in the permanent indexes, but, in order to secure it, induce the necessity of repeating the trouble of comparison, the quantity of labour and of materials expended on this service is proportionably and very greatly augmented. It would seem from the evidence of Mr. George Moore, that originally and down to the year 1785, a single direct entry from the Memorial sufficed for the formation of the parties' names' indexes. The objection suggested to that method is the difficulty there would be in so compiling them in dictionary order, which is conceived to be now quite essential to the dispatch of business in the Office. Of the value of preserving that order there can be no doubt; and its necessity must be the more felt as the names accumulate. Besides the labour attending the compilation of these indexes, on the present plan, the further labour of searching cannot but be increased by the great number of volumes, and short periodical divisions of Indexes, which go to make up the series. There are, we find, altogether 52 volumes of parties' names' day books, and 67 volumes of the yearly books, from the year 1785 to the present year; and the parchment books, containing separate indexes from the commencement of the institution (to the year 1816), amount to 22 volumes. The above enumeration excludes Mr. Moore's compilation before noticed, consisting of 119 volumes. The simplest search for the acts of an individual cannot be made without preliminary reference to many of these books or indexes: for instance, if we suppose a simple search for the acts of one person for the last twenty years, the searcher must have recourse to seven separate volumes of the present parchment books, and must examine the 20 yearly indexes contained in them, which correspond with the period of his search; although only one (or possibly none) of them should contain what is relevant to that search. This process becomes of course more troublesome in proportion as the periods of searches are long, and the parties' names numerous, and occasions inevitably many references to the indexes, which, for their preservation, as well as to curtail labour, it would be desirable to avoid. It is also highly desirable to limit the number of references to the registry or transcript books, to which the searches in the indexes are but preparatory. Of these books there are 740 volumes. An instance is alluded to in the evidence, where between 5 and 6,000 copies of Memorials in the register books were referred to in one search. To ascertain the relevancy of each Memorial referred to, at least a partial perusal of it is indispensable, in order to find whether the parties or lands against which a search is directed, are or are not concerned in it; each reference to the Registry Book therefore implies, to a certain extent, the reading of a Memorial. A slight consideration of the obvious labour of effecting a search by such references, where they approach the number we have quoted as represented to have occurred in one search, or where they are even infinitely less numerous, may suggest the value of any arrangement that would in any material degree reduce the frequency of them. This object might be attained by the establishment of a preliminary reference from the indexes to some authentic general entry, which should exhibit together such particulars of each Memorial as to show at one view its relevancy, or irrelevancy, to any particular search, and thereby save the necessity of a perusal of, or reference to, any transcripts of Memorials in the Registry Books not really connected with such search. To this

App. N^o 15, Q. 451.

Ibid. Q. 453.

App. N^o 15.App. N^o 15, Q. 434.
435.App. N^o 15.App. N^o 21, Q. 14.

use, besides the objects we have before enumerated, we shall propose to apply the abstract book.

Contemplating the accumulation of books and indexes which has taken place, and must continue to grow under the present system, the possibility of an amendment upon the existing indexes seems well worth consideration. The object to be provided for is the preservation of the dictionary arrangement of names in indexes that shall comprise such a length of period as may at least diminish the necessity of consulting numerous or various books and indexes, in the progress of any given search. A prospective provision of this kind must be attended with a considerable present charge, which a temporary occupant of the Office would have no certain inducement to incur; although, with a view to ultimate economy, and the public purposes of the Office, the expediency of such an arrangement might be unquestioned.

A plan, which appears to us likely to be attended with some improvement, is to substitute for the present parties' names, kalendars, or indexes, a set of books of which one should be assigned to each letter of the alphabet, and contain subdivisions under heads of initial letters of names in dictionary order; as for example, in the book assigned to the letter A. there should be allowed an ample given number of folios for names beginning with Ab, Ac, Ad, &c. respectively, and under each of those heads, the names whose initials correspond with it should be entered as they occur. If we suppose a set of books so formed, including a period of ten years, the use of them may be illustrated by a comparison with the course which is necessary, in searching through the present parties' names' indexes for the same limited period. Each of the supposed books would be in fact a ten years' index of the names, commencing with the letter to which it was appropriated; and from it singly would be collected all the extracts concerning any individual name, beginning with that letter, that could be required, or by any plan procured for the further prosecution of a search against that name for such period; whereas, in proceeding in such a search as we have supposed in the parties' names, indexes as now compiled, reference must be had unavoidably to four distinct volumes, and ten separate indexes contained therein. Care must be taken so to construct these books, as to afford space for entering under each surname once entered all subsequent references to further acts by parties of the same name, meaning thereby an exact identity of both christian and surname; such entries to be confined to the references, without re-entering the names; for example, the name of Francis Armstrong being once entered under its proper head in the proposed appropriate book, as often as it should occur in subsequent acts registered within the period which the book embraced, there should be inserted opposite to this name the references to the other general entries concerning each act. Thus each name (including christian and surname) would represent every person of that name, and would have annexed to it all the references to all acts registered in the given period under such name. No distinction that is presented by the indexes now in use would be lost in this arrangement, whilst it would materially facilitate the progress of searches, by placing together all the references in any case required to be extracted. At present, a large portion of the alphabet of each index throughout the period of each search, is occupied by one Clerk referring to a single name. In the mode here suggested, the index to one letter only would be engaged; and as each book would be resorted to only for those searches which came under its peculiar letter, the number of references to each, and the exposure thereby to wear and injury, would be infinitely less than at present.

Besides referring to the transcript books, the number of the Memorial, in the indexes on the plan we have mentioned, would enable the party to refer to the proposed original entry from each Memorial in the abstract book. There all the particulars would be found under each such reference, to enable the searcher to decide upon their relevancy, and so to limit his final references to such copies of Memorials only as might concern the object of the search in the registry books, of which it would at the same time exhibit the numbers and pages where such copies were to be found. In mentioning the period of ten years, as the supposed extent of the contents of such indexes as we have proposed, it is not intended arbitrarily to fix such period for them. By shortening the period, however, the assistance designed to be afforded in the extensive and most laborious searches would be diminished; as on the other hand, it would be increased by extending it, if found practicable. It may perhaps appear on a first view, that in searches for particular acts, and for a shorter period

period than may be comprized in the proposed indexes; the present yearly indexes would afford, comparatively, greater facility: but the series of numbers of Memorials corresponding with the period of the search being ascertained, through the abstract book, the acts sought for, if on record, would be found denoted in the index by numbers coming within the series comprized in the period; and thus the actual references would be confined to acts within the period of the search however limited.

The abstract book which we have recommended should be kept in duplicate, one at least of such books being of parchment. It would afford all the materials for forming the indexes that are now found in the separate temporary books, called the "Parties' Names' Day Books," and the "Lands' Denomination Day Books;" and if the completion of the future indexes by direct entries from the Memorials, were found objectionable, the means of effecting it with as much facility as is now afforded by the day books, would thus be provided in the abstract books. The parties' names' day books and yearly books, and the lands' denomination day books, might be dispensed with, and a considerable diminution of labour and expense would be secured, besides the great additional facility in effecting searches on parties' names, by the improved arrangement of these indexes.

The lands' indexes prior to 1811, are made up of two sets of what are called Parchment County Books; the first consisting of ten volumes, and including the period from the establishment of the Registry Office to the year 1739; the second, comprising, in fifteen volumes, the subsequent period down to the year 1811, besides thirteen other volumes of the City Books, with the counties of Cork and Dublin included. These books seem to have been formed by direct entries from the Memorials, formerly; but in the last-mentioned year the practice of making extracts from Memorials into day books, and of transcribing from these into the county books, was introduced. These day books (twenty-three in number) are stated to contain the number of each Memorial, successively, with the description therein given of the lands and the names of the grantors, and of one grantee; to which are subsequently added, the number and page of the registry book where each Memorial is copied. When a day book is filled, extracts are made from it into the county books, the present set of which is comprized in eleven volumes, some of them containing four, and none of them less than two counties, in an alphabetical arrangement of the denominations of the lands in each county, with the other particulars above stated annexed to each denomination.

App. N° 25.

App. N° 7.

If the book which we have called an Abstract Book were brought into use, it would supply the place of the lands' denomination day books, as well as the parties' names' day books, and with this superiority, that the accuracy of the entries in that book, in the course suggested, would have been ascertained by the Officer himself, by a comparison with the original documents. Pursuing this suggestion, therefore, our further observations on the lands' indexes may be confined to the county books.

The descriptive particulars mentioned in the 7th section of the 6th of Anne, chap. 2, being rarely fully expressed in Memorials, it has been impossible to make these indexes strictly conformable to that Act. At present they are compiled under an alphabetical arrangement of all the lands in each county; and in a column appropriated for the purpose, such further description as is contained in the Memorial is supposed to be annexed; but, from such inspection as we have been able to make of the entries in the county books, the description seems confined, in the majority of instances, to the county and the denomination. Different counties (and very frequently the same county,) contain different lands known under the same denominations, and various or inaccurate modes of spelling denominations indicating the same lands, occur. These circumstances create difficulties in entries, and still greater in searches, which make it highly desirable that some distinctive addition should be positively required in every instance of lands or premises which are to be affected by a registry. The barony or parish, or both, might in every case be easily and certainly ascertained; and we are aware of no objection to its being made a legal requisite, that every deed of which a registry may be demanded shall express the barony or parish, or both, wherein any lands or premises to be affected by such registry are situate. By such a provision, an arrangement of the lands' indexes would become practicable, which would give great comparative facility to searches

in them; for it would then be possible to class the denominations, under the heads of their respective baronies, in each county book, alphabetically, under subdivisions, according to their initial letters. Each of such books should contain one county and no more.

The city books are similar in their construction to the county books. The general heads of description which they purport to contain, are houses and holdings, parishes and streets; but the parishes are rarely set forth, and in general all acts concerning all premises in each street are found annexed to the denomination of such street. These denominations are classed alphabetically, except in those instances (which are numerous) where from the number of acts it has become necessary to resort to a new entry of the denomination in a part of the book previously allotted to a denomination having a different initial. A considerable amendment of the present arrangement would be effected by introducing into the city books, divisions under the heads of parishes, with an alphabetical classification of denominations under those heads. A provision (similar to that which we have before recommended) that all Memorials concerning lands or premises, situate within any city or town whereof the registry may be required, shall express the parish or parishes wherein such lands or premises are situate, would render such a classification perfectly easy, and we recommend that it may be provided accordingly.

It seems unnecessary to offer any illustration of the superior facility which such a classification would present, compared with the present county and city books, in effecting searches with dispatch and probable accuracy. Some such arrangement, it is to be presumed, was designed, though imperfectly provided for in the 7th section of the 6th Anne, chapter 2. To insist upon the insertion in Memorials of all the descriptive particulars there enumerated, or to require their introduction, if practicable, into the indexes, would be superfluous. The uniform observance, however, of some provision suited to the purpose, contemplated by the Statute, will be indispensable to any material improvement in this department. How far the Memorials now on record have been conformable with the instruments they relate to, in the above particulars, it would be in vain to inquire; for, although it appears to have been the practice of Mr. Griffin, and is now considered the duty of a clerk, to compare the deeds and Memorials, so far as regards the dates and parties' names, the comparison does not appear to have extended to the denominations of lands, or other contents of the Memorials; nor does the evidence enable us to state positively, that even such partial comparison is made in every instance. So far as relates to the Registry Office, the comparison we have recommended to be made by the Officer between the first entry from each Memorial, and the deed or instrument from which the Memorial is taken, will effect all that is practicable, to insure accuracy in the contents of Memorials; and if a compliance with the parliamentary provisions, modified as we have suggested, by limiting the required description of lands, &c. to the county, with the barony or parish (or both) where they are situate, be uniformly insisted upon, it is probable that an extensive public benefit will result, by the introduction of more exactness in the preparation of such instruments; without it, the sufficiency of the indexes under consideration cannot be secured.

By the arrangements suggested, the identity of any particular denomination of land or premises, would be ascertained by its accompanying description of county, with the barony or parish, (or both) and by the further alphabetical sub-divisions under the head of each barony, the means of reference would be both full and precise in every case. Each number of a Memorial, is now made up of six figures. The manual labour of repeated entries of such numbers, and of collecting them in extracts for searches, is considerable, besides the difficulty of quickly ascertaining, and fixing with accuracy upon, numbers so complicated. If no better expedient can be devised, the simple one of commencing at certain intervals, a new series of numbers (distinguished by a letter annexed, or otherwise) might be usefully resorted to, as tending to narrow the entries in the indexes, and to lessen the difficulty above-mentioned.

In the next stage in the prosecution of a search, after the references to the registry or transcript books are collected by extracts from the indexes, more labour, and considerable skill, are requisite; the service consisting of such a perusal of each transcript referred to, as shall suffice to ascertain its relation to the search; and in making from each transcript, which appears applicable, a brief abstract of its con-

tents,

tents, so as to show the import of the deed, without recitals; by means of which, a party is enabled to decide whether any and what copies of Memorials are necessary for his purpose; or whether any further search is requisite. The number of abstracts so taken, varies from one to hundreds, according to the extent, or the variety of subjects comprised in different searches.

REGISTRY OF
MEMORIALS, &c.
App. N° 21, Q. 23
App. N° 14, Q. 65.

It would be extremely difficult to avoid some intricacy of statement, in attempting, as we have now done, to convey a description that should be generally intelligible of the complicated method and process of compiling the indexes, and effecting searches by means of them, in the Registry Office.

The final and only responsible act of the Officer, concerning a search, after the instruction is received, appears to be the authenticating of it by his certificate, if it be one of those searches where it is usual to give certificates.

App. N° 13, Q. 254.

The original Registry Act provides generally that the Register, or his Deputy, shall, as often as required by any person, make searches, and give certificates under his hand concerning all Memorials that are required. In the present practice, three classes of searches are known in the office, under the several appellations of common searches, head clerk's searches, and negative searches. The first are stated to be those which are confined to a particular Memorial specified, and such as are generally made by individuals, without the assistance of the officer, or searching clerks. The second class comprises more general searches, for which written instructions are always received. These are effected by the clerks, and the result of them delivered from the office consists of abstracts from the transcript books, of all Memorials which appear to come within the terms of the instructions subscribed, but not in any express form, certified by the person who is styled head clerk.

6 Anne, chap. 3,
sect. 10.
App. N° 13, Q. 254.

Ibid.
App. N° 14, Q. 56.

App. N° 13, Q. 254.

The third class, called negative searches, were specifically appointed to be made and certified by a particular provision of the statute of the 8th George I. chap. 15, and afterwards regulated by the 25th George III. chap. 47. The first of the enactments appears to have taken place in consequence of a doubt respecting the construction of the Act 6th Anne, chap. 2; and in order that this Act might not prove ineffectual, and its intent be frustrated, an effect which was apprehended, if it should be left at the option of the officer to refuse to make "negative searches;" it was thereby made the duty of the Register, or his Deputy, upon written application, in a prescribed form, to grant certificates, in a form also prescribed, setting forth all Memorials that concerned every person named in the instructions for such searches; and a liability in damages and costs, attaching equally to the Register and his Deputy, for any fraud, collusion, or wilful neglect, in making out such certificates, was annexed. These certificates were found some years afterwards to be unavailable, and to have fallen into disuse, by reason of the trouble, delay, and expense attending them, owing to the great increase of Memorials, all of which that were connected with any such search, it was the practice to set forth at full length in the certificates. In consequence, in the year 1785, it was deemed necessary, for the advantage and security of purchasers and mortgagees, to repeal the above enactment, and to provide that such searches and certificates might be confined to particular periods, lands, and persons.

25 Geo. III.
chap. 47.

Whilst under this provision, modified expressly with a view to reduce the expense of obtaining the benefits it proposed, it is possible that the cost of a search of this description should exceed 100 l., either the sufficiency of the act which established such provision, or the practice of the office under it, must appear questionable; and some more effectual provision is still necessary for the convenience and security of the public.

With respect to the first and last-mentioned classes of searches, the responsibility of the officer is admitted; but it scarcely ever happens that his interference, or aid, is required in the former.

App. N° 13, Q. 254.

Mr. George Moore concurs with Mr. Oliver Moore in representing the other class, called Head Clerk Searches, as not made upon official responsibility; and the latter is of opinion that the officer would be warranted in refusing to make them. Fees are demanded on such searches to a considerable amount, whether made by the office clerks, or by others, (as is frequently the case) and form one of the most lucrative sources of income, in which the Register participates. The distinction between the searches called Head Clerks, and Negative Searches, is, according to the evidence of

Ibid.
App. N° 14, Q. 191.
Ibid. Q. 51.

App. N^o 13, Q. 352. Mr. George Moore, with respect to the mere act of search, in fact nominal. Negative certificates, containing abstracts similar to those given on head clerks' searches, instead of copies of Memorials, are frequently issued from the office, at the desire, as Mr. Oliver Moore states, of the party requiring the Certificate, and to save expense.

App. N^o 14, Q. 342.

We recommend that in future all searches delivered from the office, shall be formally certified, and authenticated by the signature of the officer, so as to give the party in every such search the security of a direct official responsibility; and that every certificate (unless otherwise limited by the instruction) shall express the number of each Memorial, the date of its registry, the nature of the instrument, the names of the parties, and of the lands or premises, and the number and page of the registry book where it is entered; but that it shall be optional with the party to require such portion only of the above particulars as may suffice for the purpose of his application. All these particulars, it will be recollected, would be found in the abstract books. We have already suggested a provision for their accuracy under the officers' own responsibility. The certificates we now propose would, therefore, consist of authenticated extracts from these books, under the same responsibility. By these means, the necessity of referring to the transcript books, and the risk of procuring superfluous copies, would be greatly abridged. A party possessing such a certificate would be enabled either himself to refer to the transcript books, or to require such attested copies of Memorials only as might satisfy his object.

3 Geo. I. chap. 15.

At present the instructions for negative searches are filed as required by statute; a provision which we propose to extend to all searches in future, to meet any occasion that might arise of proving the correspondence of searches with the terms of the instructions, as well for the exoneration of the officer, as the satisfaction of the public.

FEES AND EMOLUMENTS.

26 Geo. III. cap. 47.

THE provision for the expenses of the office, and the remuneration of the officer, under the original Patent, was confined to certain limited fees established by the Act of the 6th Anne, c. 2; but in the year 1710 an annual allowance of 500*l.*, charged upon the Civil List, was added by a grant to the Patentee, to commence retrospectively from the 25th of March 1708, and to continue for a limited period. This allowance was subsequently made permanent for the life of the first Patentee, and afterwards included, as a part of the grant, in the Patents of succeeding Registrars. In the year 1785, the Act before mentioned was passed, for abridging the contents of negative certificates, which (with other regulations then projected, as it would seem, but not carried into effect) it was assumed, would cause a reduction of the Registrar's emoluments. On this supposition, His Majesty was pleased, upon an address of the Irish House of Commons, to grant to the Right honourable George Ogle, who had succeeded to the office in the preceding year, a further annual allowance of 800*l.* chargeable on the Civil List, during pleasure. Whilst Mr. Ogle's allowance was thus nearly trebled, the receipts of the office from other sources, within the time of his holding the situation, apparently must have experienced as great an increase; for the number of Registries during that time, compared with a corresponding period immediately preceding, was nearly double; and the increase of the rates of fees within the last fifteen years only of the thirty years during which Mr. Ogle enjoyed the office, may be estimated, adopting the admissions of Mr. Griffin, the officiating Deputy, at about a half. From the parliamentary proceedings, it would seem that the additional allowance to Mr. Ogle was proposed to be continued only during his life. The Patent, which in the year 1795 conferred the reversion of the office on the late Lord Kilwarden, and his son, the present Patentee, granted to them the allowance thus increased to 1,300*l.* a year, together with the appointed fees. These will be found subsequently set forth in a table, together with the claims and charges returned to us as in use in the office. The evidence we have been able to procure is not such as to afford a certainty with respect to the gross amount of the income derived from these sources antecedent to Lord Kilwarden's accession; what it may have been prior, or for several years subsequent, to Mr. Ogle's succession to the office, we are without the means of stating. The average receipts during the time Mr. Griffin officiated as a Deputy, from the year 1799 to the year 1814, when it was a part of his business to account to Mr. George Moore, his Co-deputy, for the receipts, with a certain stipulated

App. N^o 18, Q. 75
to 77.

lated reservation, are thus stated in his evidence. From the year 1799 to the year 1806, Mr. Griffin supposes the sum which he accounted for annually to Mr. George Moore, for himself and the Register, to have been about 2,500*l.*; and from the latter year to the year 1814, about 3,000*l.* A return from Mr. Moore of the sums actually accounted for to him, in the majority of those years, appears to confirm Mr. Griffin's statement. To these sums are to be added the stipulated heads of receipt reserved by Mr. Griffin, which, according to his average, produced from 740*l.* to 1,040*l.* yearly. The gross receipts of the office estimated upon this statement, taking the medium of the sums annually accounted for by Mr. Griffin, and of his own average annual receipts as above, would be about 3,600*l.*; and the average net income of the office, allowing the expenses to have been, as they are stated, about 1,100*l.* a year, would be about 2,500*l.*, in addition to the Register's salary of 1,300*l.*

The distribution of this income, upon a similar average, would appear to have been nearly as follows:

To the Register, per annum, exclusive of salary,	about -	£. 600 Net.	App. N ^o 18, Q. 85.
To Mr. George Moore, as Deputy - -	about -	1,000	Ibid, Q. 81 & 84. App. N ^o 16.
To Mr Griffin (including a salary of 100 guineas, and an allowance of 100 <i>l.</i> a year for guaranteeing the debts of the office, paid by Principal and Deputy, about -)	-	900	App. N ^o 18, Q. 83 & 85. Ibid, Q. 82, 83. App. N ^o 13, Q. 447.

It will be seen by the evidence of Mr. George Moore, that Mr. Griffin is charged with not having accounted fully, according to the agreement, during the whole period of his deputation, to which this statement refers, viz. from the year 1799 to the year 1814. This allegation it is necessary to adduce, because it affects the sufficiency of any estimate of the real receipts of the office during that period. It would appear also, from the evidence of Mr. George Moore, to have come under the notice of the arbitrators in proceeding to the award already alluded to, by which the appropriation of the pecuniary demands in the office is regulated.

It is right here to state, that we have intimated to Mr. Griffin (who does not now hold any official situation) that evidence received subsequent to his examination, made it desirable that he should have an opportunity of offering explanation on the subject of it. Mr. Griffin having declined to avail himself of the opportunity offered, we have not been able, through him, to pursue our enquiries further.

During the above-mentioned period Mr. Griffin was the sole efficient executive officer, to whom, as it is represented, was confided (with the exception of some casual interference by Mr. George Moore) the entire regulation of the charges, from a portion of which, arising under certain heads, his own allowed emolument was to be derived. Mr. George Moore and Mr. Griffin were both appointed Deputies in the year 1799; the latter, as he states, at the instance of the former. They had then similar interests: but after the year 1806, when the articles entered into with Lord Kilwarden promised to secure to Mr. George Moore, contingently, the future enjoyment of the entire emoluments arising from the official charges, subject to the before-mentioned payment of 500*l.* a year, his immediate advantage in an augmentation of the charges he then shared, was seconded by an eventual interest of much greater extent in the establishment of all the office-charges at advanced rates. In this period, according to Mr. Griffin's evidence, the greatest general increase of the charges actually occurred. The award consequent upon the articles has been so construed as to give permanency to the charges so increased, in disregard of express provisions of the statutes.

Mr. George Moore states that he had no reason prior to the arbitration to suspect the integrity of Mr. Griffin; that he had no opportunity of observing whether, or when, any increase of the fees took place; and that it was not in his contemplation to increase the fees of either Principal or Deputy; nor had he, at the time, any reason to suppose they were increased. From this statement Mr. George Moore excluded the perquisites on sending Memorials to the country, of the increase on which he alleged he had not a recollection; but he subsequently admitted that an increase of charge on that head of service was made for his own emolument, and with his sanction; and it appears from his evidence, that he was aware the practice, with respect

- App. N° 16, Q. 75. to other claims, required regulation. Of the amount of Mr. Griffin's exactions we
77. can adduce no positive evidence, beyond his own admissions of the arbitrary increase
App. N° 13, Q. 303. of the official charges. Mr. George Moore states that he has not taken any means
to ascertain how far the actual receipts exceeded the returns made to him by
Mr. Griffin, and that he does not conceive it possible to ascertain such excess. It
is remarkable that the award represents both Lord Kilwarden and Mr. George
Moore to have been "wholly ignorant of the actual income of the office, and of the
" fees and sums of money usually received by the under Deputy and head Clerk"
Ibid. Q. 295. (meaning one individual, Mr. Griffin), at the time of entering into the articles before
alluded to, when the sum of 1,000 guineas was paid to Lord Kilwarden, although for
App. N° 18, Q. 80, the six preceding years an income, stated at 2,500*l.*, had been annually accounted
85. 173. for to Mr. George Moore by Mr. Griffin, under certain heads, distinguishing Register's
App. N° 13, Q. 406, emoluments and Deputy's emoluments, and specifying certain classes of
428, 429. charge; and although Mr. George Moore was an actual participator, as he conceived,
at a fixed rate, according to what he understood to have been the practice in the
time of his predecessor, in the charges from which Mr. Griffin derived his personal
Ibid. Q. 400, 404 remuneration. He states further, that Mr. Griffin kept certain memorandum books
to 411. of receipts on account of such charges, and accounted to him for his portion of those
charges, with an allowance also thereout for the Principal.

- It does not appear that Lord Kilwarden, at the time referred to, possessed any
other information than such as he derived from Mr. George Moore, which his Lord-
ship states he is now satisfied was not correct. Mr. George Moore states that he
App. N° 16, Q. 6, 8. represented to his Lordship that the net profits of the Register had averaged, for
App. N° 13, Q. 399. the period immediately preceding, about 500*l.* a year, without stating whether they
arose from legal receipts, and without specifying the emoluments of the Deputy,
which, according to his return, exceeded 1,000*l.* per annum. This representation
App. N° 26. is said to have been founded on the returns of Mr. Griffin; and supposing it justly
App. N° 13, Q. 408. alleged that Mr. Griffin rendered untrue accounts, would lead to no safe conclusion
as to the actual receipts even on behalf of the Principal.

- A document, from which authentic information might be expected, has been
produced, viz.—a Copy of a Return made by Mr. George Moore to the Irish House
App. N° 16. of Commons, from the office of Register of Deeds, for the year 1800, purporting to
set forth, among other heads of information, "the gross receipts." These (inde-
pendent of the Register's salary,) are there set down as 1,187*l.* 3*s.* 2*d.* and stated
App. N° 13, Q. 461. to arise from fees "taken under Act of Parliament." Upon examination, we find
that the fees so described were not taken at the rates appointed by Act of Parliament,
Ibid. Q. 462. but at the rates of charge then in use; and further, that neither the emoluments of
the Deputy, or head Clerk, were included in "the gross receipts" so stated. This
document, therefore, if taken as exhibiting an account of the gross receipts in the
office, would be quite fallacious. Receipts of probably larger amount were ex-
cluded; and, deducting office expenses, the net receipt from fees for the year 1800
was stated at 390*l.* 18*s.* 4*d.* The net annual receipt, upon an average of three
years, ending with the year 1800, was stated in the same return, as not exceeding
318*l.* 19*s.* 10½*d.*; and it was further expressly stated, that (excepting the salary,) there were
App. N° 18, Q. 38. "no other emoluments." From this document, which represents the
office as executed by deputy, it would be necessarily presumed, that the claims of
the Deputy and head Clerk were of subsequent introduction. The fact is, however,
very different. The receipts in the year 1800, accounted for to Mr. Moore, were
2,039*l.* 13*s.* 10*d.*; of which his own gross emoluments as Deputy, (subject to a
charge of 56*l.* 17*s.* 6*d.* a moiety of the salary allowed to Mr. Griffin,) were
Ibid. Q. 454, 467. 852*l.* 10*s.* 8*d.*; and the net profits to him and the Principal were 1,186*l.* 11*s.* 6*d.*
To these must be added Mr. Griffin's individual receipts, also omitted in this Return,
and which, on his own admission, cannot be stated at less than 500*l.*, after paying
the whole expenses of the Searching Department. The gross profits, therefore,
(excluding salary,) must have been fourfold the amount stated in the return for
that year.

- A more recent public document, the Report of the Sub-Commissioners appointed
to inquire into the State of the Public Records in Ireland, dated in the year 1811,
App. N° 13, Q. 305. in treating of the Registry Office, incidentally notices the Emoluments. Annexed
to that Report is a Return from Mr. George Moore, wherein he states that no
correct account of the Office Fees can be given, which must seem extraordinary,
considering that Mr. George Moore had then no reason to doubt the fidelity of the
returns

returns made by Mr. Griffin. The Sub-Commissioners allude to certain estimates, and state as the result of their information, that the net average balance of fees and salary "together is estimated at 1,600*l*;" expressing, however, a strong doubt of the accuracy of such an estimate. It appears from the evidence, and a return from Mr. George Moore, that the receipts accounted for to him for some years prior to 1811, actually exceeded 3,000*l* a year. If to that sum be added Mr. Griffin's allowed receipts, and the Register's salary, supposing the office expenses to have been as estimated, the surplus of the receipts cannot be estimated at less than 4,000*l*. In answer to our inquiries on this subject, Mr. George Moore expressed doubts, as to the fact of his having returned the estimates alluded to by the Sub-Commissioners, as to the period, and as to the particular classes of fees or perquisites to which they might be intended to refer; observing, however, that if the estimate of the net emoluments at 1,600*l* a year referred to any period subsequent to his appointment, it "must have been confined to the emoluments of the principal, and have referred to a period immediately following his appointment." The result of Mr. George Moore's evidence is a supposition that the Sub-Commissioners' statement of the estimated net annual receipts was taken from the return which we have observed upon above, made by him ten years before to Parliament; and, notwithstanding he admits that he had communication with the Sub-Commissioners, who refer expressly to his authority, Mr. Moore professes a "belief," that the estimates given by the Sub-Commissioners "were not received" from the Registry Office, or founded upon information obtained from that "office;" yet it will be seen that, in replying to a specific question proposed on this point, Mr. George Moore does not avow any doubt of the consistency of the estimates with the import of the admitted verbal communication. The ascertained omission of certain heads of emolument in the above-mentioned Return to Parliament, and in the Statement published by the Sub-Commissioners of Records as upon the authority of Mr. Moore, leaves no doubt that upon neither of these occasions was a full account of the receipts, or profits of the office, presented to the public.

Whatever presumption may be formed from the facts collected, and the admissions upon the evidence, they do not amount to proof, that the actual receipts during the period of the deputation of Mr. George Moore and Mr. John Griffin, did exceed the amount of the gross receipts acknowledged, as estimated above from their testimony. The latter estimates the total increase of office charges within that period at about a half. The number of Registries (with which it may be supposed the influx of other business was progressive) increased in a corresponding proportion. In the year 1800 it exceeded 6,000*l*; in the year 1813 it exceeded 9,000*l*. The receipts in the former of those years may be stated as follows; viz.

	£.	s.	d.
For the Register (exclusive of salary) - - -	1,187	3	2
Mr. George Moore - - - - -	852	10	8
Mr. Griffin, according to his lowest estimate - - -	740	—	—
Making a Total of - - -	£. 2,779	13	10

The gross receipts for the year ended in January 1814, appear to have been,

	£.	s.	d.
For the Register, exclusive of salary - - -	1,909	12	—
For the Deputy - - - - -	1,614	4	11
Mr. Griffin's receipts, according to his own estimate - - -	1,040	—	—
Making a Total of - - -	£. 4,563	16	11

Whence it would seem that, upon the whole, the receipts stated to have been accounted for by Mr. Griffin, with his own, estimated as above, did not fully keep pace with the advance of the charges and the quantity of business, upon a comparison of those years, the first and the last of the deputation of Mr. George Moore and Mr. Griffin, under Mr. Ogle. It is necessary to observe that these

REGISTRY OF
MEMORIALS, &c.

App. N^o 18, Q. 81.

App. N^o 25.

App. N^o 18, Q. 18.

App. N^o 13, Q. 394.

Ibid, Q. 436 to 446.

Ibid, Q. 437.

Ibid, Q. 441.

App. N^o 18, Q. 32.

75-77.

App. N^o 6.

App. N^o 18, Q. 88.

App. N^o 13, Q. 445.
were 466.

REGISTRY OF
MARRIAGES, &c.

were the years of the smallest and largest receipts respectively that occurred within that time, comprising a period of fifteen years. A great disproportion in the increase of the Deputy's receipts may be here observed; for whilst, according to the above comparison, the receipts of the Register had increased about two-thirds, and the head Clerk's estimate of his receipts would not admit an increase of a half, those of the Deputy were almost doubled. The result of the above statement, resting upon the facts and evidence actually collected, would be, that up to the time of Lord Kilwarden's accession, the gross receipts did not amount to 4,600 *l.* in any year.

The average receipts (excluding salary) of the last three years (calculated to the 31st January 1814) of Mr. Ogle's continuance in office, may be stated thus:—

		£.	s.	d.
App. N° 6.	The Register's, according to the Deputy's return	1,850	2	—
	The Deputy's - - - - -	1,509	12	5
		3,359	14	5
	And adding the head Clerk's receipts, at Mr. Griffin's highest estimate	1,040	—	—
	The Total gross receipts so computed, on an average of these years, would be	4,399	14	5

An accurate account has been kept of the emoluments of the office since Mr. Ogle's decease; and the returns made to us exhibit a gross annual average of 6,223*l.* 7*s.* 4*d.*, exceeding the average of the admitted annual receipts, in the last three years of Mr. Ogle's time, by 1,823*l.* 12*s.* 11½*d.* Compared with the receipts accounted for in the last year of Mr. Griffin's deputation, the gross fees and emoluments of the Principal and Deputy (excluding salary) in the first year of Lord Kilwarden's possession, exhibit an excess of 962*l.* 15*s.* 4*d.*; and upon a similar comparison with the year ending in August last, there appears an excess of 1,548*l.* 9*s.* 2*d.* in the latter. From this comparison the produce of head Clerks' searches (whence Mr. Griffin's allowed emolument was derived) is excluded; but the claims under that head in the first of Lord Kilwarden's years exceeded the highest corresponding receipts admitted by Mr. Griffin by 194*l.* 4*s.* 2*d.*; and in the year ending in August 1819, there was an excess of 410*l.* 19*s.* 3*d.* upon a similar comparison. These differences must be added to the results of the above comparison of the respective years, to show the total excess; which, adopting this calculation, would be as between the last year of Mr. Griffin's deputation and the first of Lord Kilwarden's possession, 1,156*l.* 19*s.* 6*d.*; and, as between the former and the year ended in August last, 1,959*l.* 8*s.* 5*d.* The fluctuations of business since Lord Kilwarden's accession would appear upon the whole rather to have tended to a decrease. On the other hand, under the Stamp Act, and some new arrangements of the Deputies, productive heads of emolument have been added, but not to such an amount as satisfactorily to account for the comparative increase on the receipts (as ascertained or estimated above) in the last year of Mr. Griffin's deputation. It would seem too, from returns before us, that the receipts have actually advanced in an inverse proportion to the business. From the year 1816 to the year 1818, inclusive, the receipts experienced a gradual annual increase of more than 800*l.* In the same period the business, estimating it by the number of registries and searches, gradually diminished; and it is very remarkable that the largest increase of receipt, and the greatest apparent decrease of business occurred progressively together, under the same head, that of head Clerks' Searches; wherein alone there was an increase of annual receipt equal to nearly 600*l.* within the period referred to. The possibility of such a result is referred by Mr. George Moore to the greater extent of such searches, though fewer in number. The probability of such gradual effect from a cause so uncertain and fluctuating may be well doubted. It is positively stated by Mr. George and Mr. Oliver Moore, that the rate of fees taken in the office since Lord Kilwarden's entering upon it has not been augmented in any instance whatsoever, whilst some of the office charges are considerably reduced. Instances wherein we find it impossible to acquiesce in this representation, will appear hereafter in treating of the respective heads of charge.

The

The distribution of the receipts since Lord Kilwarden's accession, under the appointment of the award, appears to have given, upon an annual average, App. N° 39.

	£.	s.	d.	
To the Register (salary not included)	-	-	2,381	4 1 Net.
To Mr. George Moore	-	-	1,984	5 4
The average yearly expenses (excluding the allowance from Mr. George Moore to under Deputies) have been	-	-	1,539	16 7
	£.	5,905	6	—

Besides the sums thus distributed, it is stated that there are outstanding claims, amounting to about 1,600*l.*, for debts which have accrued since Lord Kilwarden's accession. Adding the Principal's salary, therefore, the total annual charge to the public may be estimated at about 7,500*l.*, and his total emolument at about 3,800*l.* a-year. App. N° 13, Q. 489.

It is not denied that this emolument of the Principal comprises a portion of receipts from fees taken at a higher rate than those limited by Statute, and from perquisites heretofore demanded as for the Deputy. Indeed, the whole of the emoluments, legitimate or otherwise, as Lord Kilwarden understands, are carried to one fund, out of which his Lordship receives a share. Such has been the construction of the direction of the award, which in other respects his Lordship feels bound to fulfil, and to which, conceiving that the arbitration was appointed to divide the emoluments of the office between himself and Mr. George Moore, he appears to have adhered in this respect, without feeling occasion to enquire into the legality of the receipts. The arbitrators seem to have proceeded under a similar impression. The lowest amount of income contemplated in the apportioning clauses of the award, so far exceeds any estimate we have received of the legal receipts from fees, that it is impossible to imagine it could have been suggested by any such consideration. From the evidence of Lord Kilwarden and Mr. George Moore, it would seem that the Statutes which prescribe and limit the official fees, and the patent which also recites them, were not brought within the notice of the arbitrators. Mr. Oliver Moore, who was employed on that occasion by Mr. George Moore, as his solicitor, had himself a pecuniary stake depending upon the result of the arbitration, by a pre-existing agreement, under which he now holds the situation of a Deputy, with a share of the emoluments assigned by the award to Mr. George Moore; and it would seem to have been on the representations of Mr. Oliver Moore and Mr. Mills, Lord Kilwarden's agent, that the apportionment was decided. We must here refer to the evidence of Mr. Mills, to whom, his instrumentality on that and other occasions, as the representative of the Register, naturally prompted us to address some inquiry. We have had the less difficulty in yielding to the plea urged by Mr. Mills for not fully answering, because his evidence precludes even a suspicion that he had any previous sanction from Lord Kilwarden in taking that course; and because his discretionary silence does not leave the object of inquiry unsatisfied. App. N° 10, Q. 4, 5, 15. App. N° 13, Q. 61. App. N° 10, Q. 10. Ibid. Q. 24, 25. Ibid. Q. 28. App. N° 13, Q. 289, 290. App. N° 10, Q. 28. App. N° 13, Q. 290, 291. App. N° 14, Q. 332, 333, 334.

Several reasons have been offered in excuse of the acknowledged disregard of the Statutes, in what relates to the fees. The first, and that which most plausibly claims attention, is the assumed inadequacy of the legal fees to provide for the officer's remuneration and the expenses of the establishment; and connected with this is the alleged "established usage" of the office. With respect to the latter, applying the term to the charges in use at the time of Lord Kilwarden's succession, by reference to which it is attempted to justify the subsequent claims, the mode in which they are admitted to have accrued makes it unnecessary to offer further reasons for declaring it to be in itself quite inadmissible. The existence, indeed, of any uniform or permanent system of charge, resembling what is implied in the term "established usage," cannot be supposed consistently with the evidence of Mr. George Moore, or of Mr. Griffin, up to the time when Lord Kilwarden came into possession. Mr. Griffin has distinctly deposed, that at different intervals there were variations (by increase) of the rates of charge; and that during the whole of the period referred to "there was no fixed rule, according to which there was one uniform charge for the same service." This assertion is to be reconciled with other parts of the evidence of this witness, wherein various heads and rates of charge are specified, by understand- App. N° 13, Statement after Q. 75. Ibid. Q. 37, 39, 101. App. N° 5. App. N° 14, Q. 225, 226. App. N° 18, Q. 13, 14, 32, 35, 43, 59, 73, 74. App. N° 18, Q. 30, 34, 75, 76, 78, 116, 145. Ibid. 35, 41. Ibid. 45, 48, 54, 55, 56, 75, 132, 133.

REGISTRY OF
MEMORIALS, &c.

ing what we collect from further evidence to have been his practice; namely, that although the gross charges embraced, and were taken as embracing, certain component claims (for the greater part of which he had to account,) such charges frequently exceeded the amount of those claims, varying in their excess, according to his arbitrary estimate of the contents of the document, and the trouble and expense to the office in executing the service. This explanation is consistent with Mr. Griffin's evidence, where he states, that against the party there was no distinct claim, as for the Register, upon any service; but that he "made the charge to the party in gross, and afterwards divided the "sum received." In this representation of Mr. Griffin's practice Mr. George Moore partly concurs; he states that lump sums were taken, out of which certain claims were accounted for, but that some of the fixed items had ceased; that with respect to some charges, Mr. Griffin had assured him that it was impracticable to reduce them to any certainty; that he himself "never knew any fixed rate of charge;" and that "no certain rate had existed." He has further stated in express terms, that in November 1814, subsequent to Lord Kilwarden's succeeding to the office, there was no standard of charge by which the demands on the most expensive head of service, that of negative certificates, were regulated. Mr. Oliver Moore has mentioned instances of such demands at a more recent period, which he describes as discretionary charges; adding, that he was unable to state upon what principle they were made. Similar instances of other charges not referable to any principle known to the officer have been noticed in the practice of Mr. Armstrong. These statements are irreconcilable with any admissible notion of "established usage;" and it would be difficult to conclude, consistently with them, whence has been derived that standard of "established practice," by which the Deputies profess to have regulated official charges, and which has been put forward as authorizing claims, which it is contended correspond in amount with the undefined, discretionary, and in some instances unknown demands of the late acting Deputy; or, that if there be "any accidental" difference between them, it consists in diminution, and not in increase." With respect to some of the existing charges of that class, concerning which it appeared to the arbitrators, that Mr. George Moore was formerly wholly ignorant, those upon what are called head Clerks' searches, "the ancient usage of the office" is urged as a ground of right; yet it is represented that Mr. Griffin "had no fixed or regular mode of charge" for this service; and the existing charges were "formed" by Mr. Oliver Moore since Lord Kilwarden's succession in the year 1814. Of the two items of claim which compose the charges so "formed," the principal one was increased a half, and the other largely (i.e. 6d. having been substituted for 1s. and 3s. 4d. for 2s. 8½d., in this formation,) upon a comparison with similar items stated to have been heretofore comprised in charges for the same service; and thus the present claims exhibit striking deviations from the alleged "ancient usage" by which it is attempted to support them. It will sufficiently appear from this and other examples, that even were the rights of the office not limited by statute, the existing claims are untenable on any ground that bears affinity to "ancient or established usage," in the proper acceptance of such authority.

An impression of the insufficiency of the legal fees appears to have prevailed beyond the precincts of the Registry Office; and to have had its weight, perhaps, towards inducing professional persons to acquiesce in higher and additional charges. Such acquiescence has been pleaded as proof of the reasonableness of the demands; but in those instances which have been peculiarly brought under our notice, that supposed sanction appears to have been given without sufficient information to warrant it; and it deserves to be remarked as elucidating the nature of such acquiescence, that the charges here particularly alluded to, those on head Clerks' searches, were introduced by Mr. Oliver Moore, as he informs us, in part with reference to concurrent professional charges on the same service. Mr. Oliver Moore and his coadjutor, Mr. Armstrong, being themselves Solicitors, as well as Deputy Registers and head Clerks, their practice occasionally unites the charges of either description applicable to the service in question. These are the same charges, the right to which we have before mentioned, Mr. Oliver Moore represents as resting also upon "ancient usage."

Mr. George Moore has mentioned, amongst the supposed defects of the Registry Acts, that the fees of office, on the best estimate he could form, "would produce "little more than sufficient to pay one half the disbursements for clerks, parchment, "stationary

App. N° 13, Answer
to Q. 68 after Q. 75.

"stationary, bookbinding and other expenses incurred in the maintenance of the office, without including any remuneration for the attendance, services and responsibility of the acting officers." Such a representation led us to call for an estimate of the receipts that would have accrued from such fees in a year, taking for example the second year of Lord Kilwarden's possession. The gross receipts in that year, ending in August 1816, were nearly the same as in the preceding year, but considerably less than in each of the succeeding years; and as the legal claims must proceed with the other demands, the legal receipts in the year selected would be considerably under the average of the subsequent years. In the first instance, Mr. George Moore estimated that the produce of such fees in that year would "have very little exceeded 900*l*." Upon our further inquiry he amended, and increased his estimate to about 1,200 *l*. or 1,300 *l*. as the possible amount, without pledging himself for its accuracy. But there is a much more important objection to this estimate than a possible inaccuracy of calculation; for although Mr. George Moore states "it certainly was in his contemplation to comprise in it all services for which fees were expressly prescribed by statute," a very considerable head of receipt, that would be warranted by the Act, is omitted entirely. Under the distinction adopted in the office concerning searches and certificates, the prescribed fee per sheet for copies contained in the latter is not made applicable in all those searches which pass under the denomination of head Clerks' searches, wherein abstracts are substituted for copies. No part of the claim for such abstracts is brought into the above estimate, but merely the common fee of sixpence for each such search. The number of such abstracts within the period of the estimate, according to an official return, was 10,303. The actual charge for each abstract is 1*s*. 6*d*., agreeing exactly with the amount of the legal fees per sheet upon a copy of 500 words; which, it may be recollected, is, according to the officiating Deputy's evidence, the highest average of the contents of Memorials of ordinary length. Taking the actual charge for abstracts within the period of the estimate as the amount of legal receipts that would have accrued from the copies, if taken instead of abstracts, and deducting a proportionate number of abstracts for those head Clerks' searches which have been followed by negative certificates, the estimate would acquire an addition of at least 700*l*. The sum included by Mr. Moore in his estimate, at the rate of 6*d*. for each search, would amount to 62*l*. 18*s*. The actual charge for searches of this description, within the period of the estimate, was 1,580*l*. 6*s*. 8*d*. The first impression conveyed by Mr. George Moore's evidence was extremely erroneous; and under the exclusive distinction with respect to head Clerks' searches, his amended estimate still did not embrace a very considerable source of emolument within the provisions of the statute. Including the Register's salary, the total legal emolument within the year referred to, according to the above estimate, would have been 3,300*l*. An increase of about 200*l*. a year accrued in the legal receipts under the Stamp Act in the subsequent years. Allowing this addition to the annual income of the office from the same sources, and deducting the average yearly expenses as officially returned to us, the surplus of legal emolument would present an average somewhat exceeding 1,800*l*. per annum, during the period of Lord Kilwarden's possession. When it is considered that during the whole period of Mr. George Moore's interest in the office the remuneration for almost the entire execution of the duties has been estimated at a vastly inferior amount, and that the proportion of profits allowed to the two officiating Deputies under the existing arrangement, has not amounted to half of this estimated surplus, there appears no ground to allege a deficiency of the appointed emoluments as an excuse for perseverance in charges unreasonably augmented or introduced in violation of the statutes. According to Mr. Moore's estimate, the excess of the office charges above the legal fees in the year referred to, was 4,478*l*. 4*s*. 6*d*., the gross charge being 5,778*l*. 4*s*. 6½*d*.; but if we allow 6*d*. for each of the 10,303 abstracts above referred to, considering each as the first sheet of a copy, that excess would be reduced by 257*l*. 11*s*. 6*d*. There appears to be no material cause of variation from this proportion of excess in the succeeding years.

Lord Kilwarden, in vindicating official demands beyond the limits prescribed by statute, has informed us that the office was conferred on his father in remuneration of his services; but his Lordship has also stated that, "it was perfectly well known, at the time the office was granted in reversion to his father, both by the Government who gave the office, and by his father when he accepted it, that the value of the office arose from fees exceeding in rates those specified in the Act of Parliament."

REGISTRY OF
MEMORIALS, &c.

App. N° 13, further
Answer to Q. 64,
after Q. 75.

Ibid, Q. 393.

Ibid, Q. 392.

Ibid, Q. 392 & 437.

App. N° 32.

App. N° 27

Ibid.

App. N° 30.

App. N° 18, Q. 88.

App. N° 30.

App. N° 10, Q. 4.

REGISTRY OF
MEMORIALS, &c.

"Parliament." This argument, if it could add any validity to the claims in question, could still not be admitted, without entertaining the supposition that his Lordship's father, then occupying one of the highest legal appointments in the Government of this country, contemplated from His Majesty's bounty the enjoyment of illicit emolument. Whatever may have been the understanding, the grant is, in terms, at variance with the inference suggested by the testimony we have quoted.

The preceding observations are intended to apply more particularly to the heads of fees allowed by statute. With respect to the emoluments from other sources, Lord Kilwarden states himself to be quite uninforming; and that he did not enquire concerning their legality; but, acting under the impression that such demands, as well as the increased rates of fees, had become justifiable by usage, his Lordship, on coming to the office, gave instructions to his deputies, to adhere in all points to the charges supposed to have been established in the office. The patentee, therefore, must be considered as having given his sanction (however unadvisedly) to the continuance of charges which are not to be justified. That his Lordship, regarding the office as a sinecure, thus acted without being acquainted either with the regulations, or the prevailing practice of the office, is to be collected from his evidence. The engagement to Mr. George Moore, which subsisted at the time of his coming into possession, may further account for some degree of inattention. His Lordship states that he has never read the award; and would appear only to have acquired, incidentally, a general and uncertain knowledge of the extent of its obligation and effects. The general scope and consequences of that adjudication have been so fully explained, that we deem it unnecessary to add any observation, farther than to notice one of its palpable effects, as represented by Mr. George Moore, which has been to add to the emoluments of the Principal, by subtracting from receipts, as for Deputies and head Clerks, upwards of 1,500*l.* a year.

With respect to the emoluments of this description, there is yet unnoticed one plea offered in justification of the existing demands, founded principally on a limited construction of the statutes, and on the ground that a system of accommodation to the public has been introduced, under which services are performed, or permitted to be performed, which are not obligatory on the officer. This will be observed upon, in considering the several demands incident to such services.

Notwithstanding the addition to the income of the Principal, out of the emoluments formerly appropriated to the Deputy and head Clerk, the award has left at Mr. George Moore's disposal, a gross income sufficient to provide for the execution of the office by two under Deputies, to defray a charge of 419*l.* 16*s.* 8*d.*, for the benefit of his family; and to leave a net residue to himself of 782*l.* 4*s.* 4*d.* a year, upon an average, extending to the period of Lord Kilwarden's possession. A sum corresponding with the above-mentioned charge, was appropriated by Mr. George Moore, to the use of his family, out of his receipts, prior to Lord Kilwarden's accession; and the same sum appears to have been allowed under the Award, in the way of annuity, in consideration of circumstances attending the payment of 1,000 guineas, in the year 1806, as the inducement to Lord Kilwarden to assent to the agreement then entered into. It is included, in the division, in Mr. George Moore's general proportion of the annual emoluments. The subordinate arrangement in the distribution of the receipts for the remuneration of the under Deputies, is as follows:—The charge of 419*l.* 16*s.* 8*d.*, is first set aside out of Mr. George Moore's net receipts, which are in the proportion of 5-11ths of the whole; he then takes a moiety of the balance, and the remaining half goes to Mr. Oliver Moore, who on his part allows Mr. Armstrong one third of the residue, retaining 2-3ds himself. This subdivision is founded upon agreements between the respective individuals, to which Lord Kilwarden is not a party, and has produced, on an average,

App. N ^o 30.	To Mr. Oliver Moore, net per annum	-	-	£. 521.	9.	7.
	To Mr. Armstrong -	-	-	-	260.	14. 9 ¹ / ₂ .

exclusive of their small proportion of the outstanding sum before noticed.

We do not pretend to have traced, with any certainty, the first introduction of a charge for the use of the Deputy, whether in the form of an increase of the Register's fees, or in the character of perquisites. The earliest evidence we have been able to procure concerning the Deputy's emoluments, applies to the period immediately preceding

ceding Mr. Ogle's appointment in the year 1784. One of the Clerks of that time, and, as we believe, the only accessible living authority, states, that at that period, he never heard of any Deputy's fees, except that Mr. Kelly (then the Deputy) retained the difference between Irish and English money on all Memorials, and that certain perquisites were equally shared by the Deputy and the Clerks, forming a part of the remuneration of the latter, which perquisites appear to have arisen, partly from increased rates of fees, and partly from charges for services, for which there was no appointed fee. The participation of the Clerks in these perquisites, is represented to have ceased, and their receipt to have been continued for the Deputy's use, soon after Mr. Ogle's appointment; when, also, one distinct fee was introduced as for the Deputy. Of the amount of the perquisites, or the proportion they bore to the Register's fees, we have no information; but it would seem that the Register's participation in the receipts, was then limited to the parliamentary rates; and that an allowance of 100 guineas a year, with the above-mentioned share of perquisites, constituted the Deputy's emoluments.

We have seen a return of fees made to an order of the Irish House of Lords from this Office, in the year 1771, being twelve years prior to the period above alluded to, signed by the Deputy Register of that day, which affords no reason for supposing that more than the fees appointed by Statute were then taken. Instances are stated to have occurred many years after, and even subsequent to Mr. Ogle's appointment, in which the performance of the Register's duty was insisted on, by attornies, for the payment prescribed by Statute; whence it may be fairly inferred, that down to that time the statutable rates had not fallen into disuse. During a part of Mr. Ogle's time, however, it clearly appears that the Register participated in fees exceeding the rates appointed by Act of Parliament; whilst the Deputy's claims, in practice, acquired a distinct confirmation, and were increased far beyond the sanction of any precedent. It is stated to have been the practice of the Deputy, in the time of Mr. Ogle's predecessor, to enter all the charges in a day-book, but that there were no apparent claims as for the Deputy; that this practice ceased when the perquisites became the sole property of the Deputy, soon after Mr. Ogle's appointment, and that the entries in the day book were then confined to the Register's claims. Subsequently a distinct method was introduced of noting by certain marks, the claims of the Deputy (whilst the Register's claims were expressed in figures) in the day books, and other memorandum books. In figuring the gross charges upon documents passing from the Office, the sums signified by these marks were added, and included in one amount with the claims for the Register: consequently there was no avowed or apparent claim as for the Deputy. Both Mr. George and Mr. Oliver Moore agree that the charges so denoted were taken for the Deputy's use; but neither can inform us for what purpose, or when first this method was resorted to. The former states, that it was in use in the time of his predecessor, and he does not know that it was in use before. It seems probable therefore that the time of its commencement was, as from other evidence it appears to have been, about the year 1794; and that it was introduced by Mr. John Moore, the Deputy of Mr. Ogle. With a view to trace the progress of the Deputy's claims, we have endeavoured to discover whether the marks thus employed varied in their signification of value. Mr. George Moore, for whose exclusive use the charges so denoted were for many years taken, states, that he "was not in the habit of examining them, and cannot answer whether "they at all times within his knowledge signified the same sums." Mr. Oliver Moore, who seems to have had but a short acquaintance with this subject, refers to Mr. George Moore, as the source whence he derived his actual knowledge of their value. It was not material to pursue that enquiry; it being ascertained, that the claims for the Deputy did experience a material variation. The discovery of the system marks the establishment of specific separate charges for the Deputy's sole use; its clandestine quality betrays its want of authority; and one instance, selected from the evidence of Mr. Giffin, may suffice to exemplify the progress of its application. He states the lowest charge within his experience of the office upon the registry of a Memorial, to have been 3*s.* 9*d.*, whereas the Principal's share was 2*s.* 6*d.* The lowest charge for the same service, when he quitted the office, was 5*s.* 11*d.* and of this the Deputy's share was 2*s.* 5*d.*, leaving to the Principal 3*s.* 6*d.* On this service, then, the Register's claim was increased one shilling; no light addition in proportion to the total claim, and considering the frequency of the service, it applies to; the Deputy's demand was very

REGISTRY OF
MEMORIALS, &c.

nearly doubled, and made equal, within a halfpenny, to the Principal's previous share; and the gross charge experienced an addition of more than one half. The proportion of increase in this instance corresponds with Mr. Griffin's estimate of the general augmentation of the charges. The practice of employing marks to denote the Deputy's and head Clerk's claims ceased on Lord Kilwarden's succession: but the charges to the public are still stated in gross sums, neither showing the items that compose them, nor that any part of the claims is made as for the Deputy.

Having concluded what we have to offer generally concerning the gross emoluments resulting from the practice which has prevailed, we shall here submit our opinion of the pecuniary provision that may be suitable for the establishment, if placed upon the footing we have to recommend; namely, the substitution of two efficient responsible officers, instead of a sinecure Register with unlimited powers of deputation, as at present. Such a provision must necessarily include the fixed remuneration of these officers, the estimated expense of the necessary payments to Clerks at proper rates; and the further incidental disbursements, including stationary and parchment. We propose that one principal officer shall be appointed, as at present, by patent; and that he shall nominate a second, or assistant officer; that these officers shall act under an equal and mutual responsibility; and that, to effect this security to the public, the nominee shall join in the recognizance with the patentee and his other sureties. The indispensable qualifications for such a situation, with reference to competency, the confidence to be reposed, and the responsibility that must continue to attach, as well as the stipulated constant attendance of both officers, and the necessary restriction from the pursuit of any other avocation, obviously suggest the fitness of not proposing a parsimonious allowance. With these observations, we have humbly to submit that a salary of 1,500*l.* be allowed to the patentee, and 1,200*l.* to his nominee.

The expense of the payments to Clerks must be variable with the quantity of business. The yearly incomes of the present Clerks seem to vary in different degrees; the lowest may be stated at about 50*l.*, the highest at about 150*l.*: a distribution of the whole would give to each Clerk about 100*l.* a year. The average of these expenses in the last five years has been 1,226*l.* 13*s.* 4*d.* Under some heads, however, the present allowances are quite inadequate. For example, the Clerk is paid only 4½*d.* for transcribing into the registry books, which are of parchment, an ordinary Memorial, extending in some instances, according to Mr. George Moore's evidence, to 1,000 words. The engrossments in these books, if we except the very early period, deserves serious observation. It is essential that they should be executed both legibly and durably, without abbreviations. The present engrossments are imperfect in each of these requisites: the writing, generally, is not of a sufficient substance, and exhibits neither uniformity nor perspicuity; and in numerous instances the transcripts evidently have been made with a degree of haste quite incompatible with the precision so necessary for avoiding error, more especially in the accurate spelling of the names of lands and parties. These imperfections it is but reasonable to attribute principally to the manifest inadequacy of the allowance. It will be necessary then to provide a sum at least equal to the above average for this department. To this is to be added the amount of incidental disbursements applicable to the important purpose of forming, preserving, and occasionally renewing the books, indexes, and other documents which constitute the records of the office. The necessity of an ample provision under this head, when it is considered that the law of registry has made the titles of property to a certain degree dependent upon the permanence and sufficiency of these records, will be admitted to be founded in justice, not less than on public convenience. The fees which we shall proceed to recommend, after noticing the present similar provision compared with the actual claims, will, we trust, be found moderate in their application, and adequate to the above objects, without continuing the present annual charge of 1,300*l.* on the Civil List.

The subjoined Table exhibits a comparative statement of the fees of the office as prescribed by Statute, and of the charges now in use, distinguishing the claims comprised in the latter, as for Principal, Deputy and head Clerk, respectively. The terms of the Statute precludes any claim but for the Register, for the appointed services,

	SERVICES on account of which Claims made	RATES OF FEES Specified in Acts of Parliament, and in Register's Prices.	TOTAL CHARGES Now made in the Office.	CLAIMS comprised in the present Total Charges :			
				For Principal.	For Deputy.	For Clerk.	
1.	For the registering of each Memorial, of ordinary length, (estimated on an average at from 4 to 500 words,) and returning certificate on the instrument registered; except Memorials of civil bill decrees, which are after mentioned	For the first sheet of 1. d. 100 words - 0. 6. Each subsequent sheet 0. 3. Certificate of Registry 0. 6.	£. s. d. - - - 0. 5. 11½	£. s. d. 0. 3. 6.	£. s. d. 0. 5. 5½	£. s. d. -	
2.	If of extraordinary length	Provided for above	If it appears to contain about 1,000 words - 11. 11. and increased in the same ratio.	0. 7. 0. and increased in same ratio.	0. 4. 11. and increased in same ratio.	-	
3.	For receiving Affidavits of perfection of certificates, and entering satisfactions of Mortgages on record, and giving certificates thereof	(Swearing Affidavits - 0. 6. Entering Certificates - 0. 6. Certificate of each entry 0. 6.)	- - - 0. 5. 0.	-	Not distinguished.	-	
4.	For the entry of every certificate of the dissolution of anonymous partnerships	- - - - 5. 0.	- - - 0. 5. 0.	0. 5. 0.	-	-	
5.	For registering each Memorial of a civil bill decrees, pursuant to Statute 36 Geo. III. c. 53	- - - Same as No 1	- - - 0. 1. 6.	0. 1. 6.	-	-	
6.	For each sheet contained in every copy given out of the office	(First sheet - 0. 6. Each other - 0. 3.)	The sheet being calculated at 72 words	0. 0. 6.	0. 0. 6.	-	
7.	For each sheet contained in every copy of a Memorial transcribed in a negative certificate	(First sheet - 0. 6. Each subsequent sheet 0. 3.)	The sheet being calculated at 72 words	0. 0. 6.	0. 0. 6.	-	
8.	For every search made in each of what are termed the short books, viz. books compiled by the late Mr. John Moore, in decennial order	The Statutes give one Fee for Search, generally, of 0. 6.	- - - 0. 1. 1.	-	0. 1. 1.	-	
9.	For each search made in the office, called common searches; being searches made by the public, without the intervention of the office clerks	- - - - 0. 6.	- - - 0. 0. 5.	0. 0. 5. 0. 0. 6. or 0. 0. 10.	-	-	
10.	For every abstract of Memorial taken by the public on such search	- - - - -	- - - 0. 0. 5.	0. 0. 5. 0. 0. 6. or 0. 0. 10.	-	-	
11.	For every search called a head clerk's search, being common searches made by the clerks employed in the office, for each ten years comprised in such search, against each name or denomination searched after	- - - - -	- - - 0. 0. 5.	0. 0. 5. 0. 0. 6. or 0. 0. 10.	-	-	
12.	For every Abstract given out and contained therein	For Search, generally - 0. 6. As for the first sheet of a Copy - 0. 6.	- - - 0. 3. 4.	-	-	0. 3. 4.	
13.	For each attendance of the Registrar, or his clerk, with a Memorial in any of the courts, or at any public office in Dublin	- - - - -	- - - 0. 1. 0.	0. 0. 3.	-	0. 1. 3.	
14.	For the fees in the country, for every day allowed for travelling and attending	- - - - -	- - - 1. 10. 10½	-	1. 0. 9.	-	
15.	For taking affidavits out of the office	- - - - -	- - - 1. 2. 9.	-	1. 2. 9.	-	

These claims will be noticed successively as they are stated in the Table. For the entry and certificate of registry of a Memorial, the payment appointed is a fee per sheet of 100 words, 6*d.* being allowed for the first, and 3*d.* for each succeeding sheet, and no more; and for the certificate 6*d.* and no more. The actual computation of words, which an exact application of the appointed fee would require, is, and has been for a length of time dispensed with; and it is not without reason that the inconvenience of a computation in the office of so many documents, word for word, is offered as an objection to this provision. The adopted mode of calculating the contents of Memorials, is by an estimate upon inspection, which estimate does not proceed upon a supposition of the number of office sheets contained therein, nor with any reference to the mode appointed by law for the computation of such claims; but is formed on the supposed average of the length of Memorials in general, and depends solely upon the accuracy of the Inspector's view. The only distinction which regulates the estimate is a division of the Memorials into two classes, under the heads of "Memorials of ordinary length, and Memorials of extraordinary length." Mr. George Moore's evidence would class all Memorials containing from 500 to 1,000 words as Memorials of ordinary length; but Mr. Oliver Moore estimates such Memorials to average from four to 500 words, in which average the other officiating Deputy seems to coincide. It will be fair, therefore, to consider the charge stated in the Table on Memorials of ordinary length, viz. 5*s.* 11½*d.* as generally applicable to Memorials containing 500 words, the highest rate of this latter average. The legal fee for the registry of such a Memorial would be 2*s.* including 6*d.* for the certificate. Thus the lowest charge now in use for the registry of a memorial wants only a halfpenny of being treble the legal claim. Adopting Mr. George Moore's supposition, that Memorials containing 1,000 words come within the definition of Memorials of "ordinary length," the legal fee for that number of words 3*s.* 3*d.* would be very little more than half the sum actually claimed: In no supposed case, therefore, is the excess of charge less than 2*s.* 8½*d.* beyond what the statute warrants. Although this excess is not of such an amount, singly, as to be oppressive to an individual, the proportion it bears to the legal claim, and the frequency of its repetition being considered, it constitutes, collectively, a very heavy exaction. The annual undue profit from this source, calculated upon the average number of registries in late years, allowing every Memorial to contain the greatest number of words which have been supposed to come within the lowest rate of charge, would fall little short of 1,000*l.*; and, if we revert to the average of the officiating Deputies, the excess must be rated at half as much more. Notwithstanding, such is the result of the adopted rate and mode of charge, Mr. George Moore represents that, in consequence of the parliamentary calculation being dispensed with, it is not ascertained that the fees received are more than the fees prescribed by statute would amount to upon a literal reckoning of the words.

All Memorials exceeding the above mentioned contents are classed as Memorials of extraordinary length. The method of adapting the charges to such Memorials, is by estimating, by inspection, what proportion their contents seem to bear to those of an ordinary Memorial; and considering how variable is the standard referred to, this cannot but appear a very fallacious criterion, even according to the adopted principle of charge. From the evidence of the officiating Deputies, it would seem that, "if a memorial appears to contain about twice as much as, or half as much more than an ordinary Memorial, the charges are increased in the same proportion; and so progressively." For a Memorial containing one thousand words, which Mr. George Moore would include in a class of ordinary memorials, subject to the charge of 5*s.* 11½*d.* Mr. Oliver Moore states the charge according to his idea of the length of an ordinary Memorial, would be 11*s.* 11*d.*, that is double Mr. George Moore's estimated charge. Mr. Oliver Moore's charge for a Memorial of fifteen hundred words would be treble the charge for an ordinary Memorial, viz. 17*s.* 10½*d.* but he cannot undertake to state that these rates of increase have not been exceeded. By this mode of computation, which admits of being doubled in its application to the same nominal class of Memorials, according to the different constructions of different Deputies, the charges for Registries (those of Memorials of civil bill decrees excepted) have been arbitrarily extended, with a total disregard to the rules of the statute. In one instance which has come within our notice, a Memorial containing 10,440 words was computed as authorizing a claim as for 25 ordinary Memorials; which would allow very little more than 400 words to each; the charge for this registry, for which, including the certificate, the parliamentary provision would

would have allowed 1*l.* 7*s.*, amounted to 7*l.* 8*s.* 11*d.*; of which 4*l.* 7*s.* 6*d.* was claimed for the Register. Very few instances occur of Memorials extending to such length; and by much the great majority come within the limits of Memorials of ordinary length. App. N^o 12, Q. 75, 109.
Ibid., Q. 274 to 278.
App. N^o 14, Q. 204.

The best information we have been able to obtain, leads us to suppose, that previous to the year 1784, though the charges for registries did not always exactly correspond with the amount which the Statute would warrant, the excess was trifling, and seldom more than might have unintentionally arisen from not adhering to an actual computation of the words, the mode of calculation then appearing to have been infinitely more accurate in its result than at present. It transpired, in the course of inquiry, that a vast number of deeds which had been tendered for registry, remained in the Registry Office. So extraordinary a fact led us to call for an official return of all such deeds, including, with other particulars, the fees appearing marked thereon as the official charges for registry. This return exhibits the progress of the charges for registries in a regular succession, almost from the commencement of the office*. An examination of the contents of Memorials referred to therein, and of the proportion in which the charges vary, would show that they were calculated with reference to the parliamentary rates of 6*d.* and 3*d.* per sheet of 100 words, down to the year 1784, the time of Mr. Ogle's accession. To this period the charges appeared to have varied from 1*s.* 6*d.* to 6*s.* Only one instance occurs of so high a charge as the latter; and very few instances are to be found exceeding 3*s.* 6*d.* From the year 1785, to the time of Mr. Griffin's deputation in the year 1799, the highest charge appearing is 9*s.* 9*d.*; the most frequent rate 2*s.* 8*d.*; and very few instances of a lower charge occur. Although it appears from evidence that at least some of the demands were taken in British currency, the claims for registry, prior to the year 1784, do not appear to have been so marked upon the deeds. Since that time they have been so marked; and as the variations of the respective charges seem never to have been less than 6*d.*, it must be inferred that the parliamentary rate of fee per sheet was then altogether abandoned. The lowest rate of charge for a registry, after the commencement of the deputation of Mr. George Moore and Mr. Griffin, in 1799, appears to have been 3*s.* 9*d.*, being an increase of 1*s.* 1*d.* upon the most frequent (without referring to the lowest) previous rate. Up to the year 1804, instances of this rate of charge are found in the return referred to; but shortly after that period, very few instances occur of a lower charge than 5*s.* 11*d.* We are not able to state that there was, prior to the year 1784, any distinct claim under this head for the Deputy; but very shortly after, in the time of Mr. John Moore's deputation, such a claim appears to have grown up of at least 1*s.* 3*d.* on each deed. This was composed of a distinct fee of 1*s.*, introduced, as it is stated, under an agreement with the practitioners, as an allowance to the Deputy for sending home each deed brought for registry, and the difference between English and Irish money upon the whole charge. During the succeeding deputation of Mr. Griffin and Mr. George Moore, this claim acquired an augmentation of 1*s.* 2*d.*, consisting of an additional fee of 1*s.* 1*d.* for the Deputy, and the difference of currency (being one penny) arising upon the before-mentioned addition of the same sum to the principal's fee. Thus the claim introduced by the preceding Deputy, for his own use, was very nearly doubled, and the Deputy's claim upon the registry of every Memorial of ordinary length became, as it is now, 2*s.* 5*d.* exceeding in itself the total charge warranted by statute for such Memorials, according to the officiating Deputies' average of their contents. In charges for Memorials of extraordinary length, this claim is repeated according to the number of ordinary Memorials estimated to be contained therein. App. N^o 13, Q. 85.
App. N^o 18, Q. 131
to 136.
App. N^o 13, Q. 130
Ibid., Q. 109.

With respect to the Deputy's claim of 1*s.* for sending home each deed, which is represented to have originated in a contract between Mr. John Moore, when Deputy, and the practitioners of the day, Mr. George Moore being questioned as to the present obligation of that contract, states, that it is the usage of the office now to perform what was then contracted for. According to the return before mentioned, however, the accumulation of deeds in the office subsequent to the contract, App. N^o 13, Q. 110
131.

* A copy of the Return alluded to having been lodged, annexed to this Report, in the Rolls Office of the Court of Chancery of Ireland, and accessible to such persons as may be desirous of resorting to it, it has been deemed not advisable to insert it in the subjoined Appendix.

contract, and the introduction of the fee, has greatly exceeded that which accrued when there was no such engagement or allowance. The number of deeds remaining in the office at the date of the return, certified as registered prior to the year 1785, was 559; and the number in the subsequent years 759.

It cannot but appear very surprising that documents of such value, and so numerous, should have remained, some of them nearly a century, in an office known to be peculiarly accessible to the public. Mr. George Moore has not been able to offer any sufficient explanation upon this subject. He cannot positively say whether all the deeds referred to have been duly registered or not; but takes for granted that all those of which Memorials were duly delivered have been registered, at least during the time of the present officer. Relying upon the official return made to us, it would appear, with two exceptions, that all these deeds have been certified as registered.

The fee appointed by statute for the entry of a satisfaction of a mortgage is 6*d.*, and no more; and in the case of affidavits being made before the Register, or his Deputy, to verify the certificates prescribed by statute in proof of satisfaction of the mortgage, the like fee, and no more. The actual demand for this service, according to Mr. Griffin's evidence, was the same as for the registry of a Memorial of ordinary length, viz. 5*s.* 11½*d.*, but without any apparent reason, inasmuch as the service, which seldom occurs, is very dissimilar. Since the accession of Lord Kildarden, in the few instances which have occurred, the charge is stated to have been 5*s.*, in analogy to the fee on entering dissolutions of anonymous partnerships. At present it is not provided that any transcript of the required certificate shall be made. We recommend that in future such certificate shall be transcribed in like manner as Memorials; and that the entries of satisfaction, shall refer to the number and page of the book where such transcript shall be found. This transcript, with the entries, should be classed, and subject to the same charge as a registry of a Memorial of a deed.

For the two next services mentioned in the Table, the official demands do not appear to have exceeded the appointed rates. The Act of the 56th of Geo. III, cap. 88, which provided for the registry of Memorials of certain civil bill decrees, annexed a penalty of 100*l.* to the demand, or receipt, of any greater fee, gratuity or sum of money for the registry of such decrees, than is now by law allowed for the registry of a deed. On this, as on every other instrument brought to the office for registry, there is a fee of one shilling, under the provisions of the Stamp Act, for the examination of the stamps; and including this fee, the demand for the registry of every Memorial of a civil bill decree is 2*s.* 6*d.* The actual contents of such Memorials are not counted; but all are estimated to contain 500 words. Mr. George Moore states that this standard has been adopted to avoid the necessity of reckoning the words. On examining several of these Memorials, their contents upon an average appear not to have been over-rated; and the actual charge falls rather short of what would be the produce of the legal fees, allowing a fee of sixpence for certificate.

The different application of charges to services exactly corresponding, and a partial observance, in a very limited class of such services, of the provisions of the statutes, which are strictly and equally applicable to all, are here remarkably exemplified. The estimated contents of Memorials of civil bill decrees, and the highest average contents of memorials (of deeds) of ordinary length, according to the officiating Deputy's evidence, exactly correspond; and the fees allowed for either description of Memorials being precisely the same, and expressed in the same statute, it would be reasonably presumed that the charges would not vary. Yet the demand for the registry of such a Memorial of a deed, is uniformly 5*s.* 11½*d.*; whilst the demand for the Memorial of a civil bill decree of the same contents is 1*s.* 6*d.*, excluding in each case the fee under the Stamp Act. It is to be observed too, that, in the latter, there is no charge comprised for the Deputy; nor does he venture to make any claim for that service. This adopted rule of charge for the registry of civil bill decrees is a final test, and condemnation of the demands, for all other Registries. It is a plain recognition, by the officer himself, of the limitation of the office fees by statute; of the exclusion of the Deputy's claims; and affords the officer's own exposition of the payment, which, according to the words of the

Act,

Act, the Register "is now by law entitled to for the registry of a deed:" and although Mr. George Moore has stated, as before observed, that, in consequence of the computation of words being dispensed with, it is not ascertained that the parliamentary allowance is exceeded, it hence would appear that the uniform claim upon registries of Memorials (of deeds) of ordinary length, as averaged by the officiating Deputies, which class is said to be as ten to one of the whole, wants very little of being four-fold that allowance, according to the officer's own construction of it. The reason for this variance of practice, and of charge, is probably to be found in the pecuniary penalty above alluded to, for an infringement of the statute in charges for registering civil bill decrees, and in the absence of such a provision concerning the registry of deeds. The registries of Memorials of civil bill decrees have not averaged more than twenty in a year.

In proposing a rate of fee for Registries, which will, in certain cases, prove higher than what is now actually taken, we contemplate the twofold object of proportioning the fees generally to the importance of the duties, and of effecting a very great and necessary reduction of the actual charges on those services which, under any arrangement, must often unavoidably induce the greatest expense. A Registry occasions a variety of entries, requiring great precision, attended with labour in different branches of the office, and with considerable expense. It is, besides, not the establishment of a momentary reference, but a permanent record, that is to be provided for. The lowest gross charge on the registry of any Memorial of a deed is now 7s. — 4d., and the charge applicable, according to Mr. Oliver Moore's evidence, to a Memorial of one thousand words, is 13s., including, in both instances, the fee allowed by the Stamp Act. The fee we have recommended in our former Reports for the enrolment of deeds, to which the entry of Memorials may be considered in a great degree analogous, is 10s. for each roll, consisting of 720 words. We propose that a like fee of 10s. and no more, shall be taken for the registry of every Memorial (except Memorials of civil bill decrees,) the contents of which shall not exceed one thousand words; and that this charge shall be progressive in proportion to the contents, as stated in the Table which we subjoin. The extension of this fee, however, will rarely occur, inasmuch as the proportion of Memorials exceeding one thousand words, is extremely small. This alteration will produce an increase of 2s. 11d. compared with the present charge upon each Memorial admitted within the class of Memorials of ordinary length; and a saving of 3s. upon each Memorial of one thousand words or less, that might be rated as a Memorial of extraordinary length. The subjoined regulations will provide the best method we can devise for obviating the inconvenience of an actual computation of words, and the extreme uncertainty and fallibility of an arbitrary estimate founded on a cursory inspection.

The object of the Legislature in the Act which appointed the registry of certain civil bill decrees, being to save expense in certain cases in proceeding by ejectments, it would be inconsistent with that object to propose a higher rate of fee than is already provided; and as the charge of 2s. 6d. now in use seems, upon an average, not to exceed the appointed fees, we do not propose to alter it.

In the fees above recommended upon Registries of each class, the separate fee allowed by the Stamp Act being included, it follows of course that the duty for which this fee was appointed must be executed by the officer without further claim.

We do not propose any alteration of the fee of 5s. allowed by statute, on the entry of dissolutions of anonymous partnerships, to which the claim of the office has been confined.

We are not aware of any reason why copies in the Registry Office should be differently rated from office copies in general; we therefore propose for the future a fee at the rate of 6d. for each sheet of 72 words contained in such copies. The fee appointed by the statute is 6d. for the first, and 3d. for each additional sheet of 100 words. The charge now made is one shilling for each sheet of 72 words. Comparing the fees allowed by statute with the charge now made on a Memorial of ordinary length, consisting of 500 words, the excess of the latter would be 5s. 6d. and the total charge more than fourfold the legal claim.

We have not been able to ascertain positively the first deviation from the parliamentary

App. N^o 19, Q. 115. liamentary rates of the fees on copies, but there is reason to believe that to the period of the passing of the Stamp Act, in the year 1806, the scale of 100 words to the sheet was observed. Mr. George Moore represents the previous practice, according to his understanding, to have been to charge a lump sum for the Register's fees on each copy, out of which sum, on the introduction of the Stamp Act, the appropriation of the specific sum of 6*d.* a sheet for the Register first commenced. It would appear, that previous to Mr. John Moore's deputation, no sum whatever was received for the deputy on office copies, except the difference between English and Irish money in the total charge; but that between the last-mentioned period and that of Mr. Griffin's deputation (jointly with Mr. George Moore,) a claim for the Deputy had been introduced, which was augmented during the time he officiated. The distinct charge of 6*d.* a sheet, now claimed for the Deputy, however, did not exist until the year 1814, and was then introduced by the direction of Mr. George Moore. This rate was fixed upon, as that officer states, because he found, upon an examination of some copies, that the Deputy's share of the sums previously received in lump equalled on an average the sums received for the Principal. Although Mr. Griffin's estimate of the gross charge for copies in his time does not vary materially from Mr. George Moore's average, the objectionable nature of such a ground for the establishment of a distinct claim for the Deputy, equal to that of the Register, and in itself more than double the legal fee, will be the more felt when it is remembered that the gross charge had grown to its existing height during the deputation of Mr. George Moore himself, and for his benefit. Thus an abuse tacitly acquiesced in was subsequently construed into an avowed precedent. A saving of one half will ensue from the proposed future charge, compared with the present demand, on copies.

App. N^o 17. A return made by Mr. George Moore, as Deputy Register, to an order of the House of Commons, dated 23d November 1814, concerning the fees taken in this Office, requires to be noticed here; as, to the authority of Parliament alone Mr. George Moore appears to consider the Office in its general conduct amenable. This document is the more deserving of attention, because it relates to the limitation of the rates of fees both prior and subsequent to Lord Kilwarden's accession, including upon the whole a period of seven years. His Lordship's instructions to his Deputies on this occasion were, that in making the return of the fees and charges they should comply exactly and fully with the letter and spirit of the order, which required an account of the rate of "fees for entries, certificates, or copies of deeds "under or exceeding the length of 100 words, distinguishing the payments to the Register or his Deputy; and stating what alteration had taken place in such rate "during seven years last past." It was probably the object of this order to obtain a full account of the payments taken for the several services appointed to be performed in the Registry Office, and their rates. The terms of the order, however, do not accurately apply to those services, and have no reference to some of the most important duties, and productive heads of charge. Concerning those which are brought into notice, the return was not such as to give a full or intelligible view of the actual claims or payments taken in the Office. With respect to the registries, adhering to the distinction we have before noticed, concerning Memorials of ordinary and extraordinary length, the charge was correctly stated; but the measure pointed out in the order, by the contents of the entries, as "under or exceeding the length "of one hundred words," evidently referring to the scale fixed by Statute, was not adhered to in the return; and as it did not set forth the number of words or sheets comprised in a Memorial of either class, it afforded no means of comparing the acknowledged charge either with the legal fees or with the real extent of the document, or service to which it applied. In this return the fee upon attested copies is stated to be one shilling "for each page of common sized paper." Adverting to the tenor of the order, it would be certainly inferred that such page did not comprise less than 100 words; and from the terms "common sized paper" it might be not unreasonably supposed to contain more. Mr. George Moore, however, states that the page of "common sized paper," mentioned in the return, signified the sheet of 72 words; that he conceived the return "sufficiently showed the House of Commons that the "parliamentary rate of charging at the rate of 100 words, was not adhered to;" and that, if there was felt to be any deficiency in the return, a more specific one "would be called for." His further explanation on this subject will be found in the evidence referred to in the margin. Although the purpose of the order was plainly

to be inferred, its terms not being literally such as to bind the Officer to satisfy the objects of the requisition, this return, like others which have been before noticed, consequently failed to convey a true idea of the extent of the demands, or the practice of the Office. This will appear most clearly from our examination of the charges upon negative certificates, the only other item noticed in the return; concerning which it is there stated, that no certain rate had existed, the charge being regulated by the labour and expense of the Deputy Register. The sole claim specified as applicable to this service is, "for every page of common sized paper contained in each copy, 6*d*." The real expense of procuring such a certificate has occasionally approached 10*s*.*6d*. Such an extent of charge would scarcely be supposed to be comprehended in the fee mentioned, and in the "Deputy's portion," as stated in the return, namely, "the remainder of the total sum received." Annexed to this return is a certificate that "the fees have been the same in this Office for the last seven years, no alteration having taken place therein within that period." Mr. George Moore's competency to give this assurance, and its accuracy, if meant to apply to the office charges under the term of "fees," must seem doubtful, considering Mr. Griffin's evidence concerning the increase of charges; Mr. Moore's professed ignorance respecting the office charges during the time of Mr. Griffin's continuance in office, which includes the whole period referred to; the alleged impossibility of subsequently ascertaining what had been his practice in some instances, and the absolute discretion which he is represented to have used in all.

The fees applicable under the statutes to the duty of searching consist of 6*d*., and no more, for every search, without any distinction of its nature or extent, and the fee per sheet, as upon copies, on the contents of the certificates of searches. The searches, as before observed, are in practice nominally distinguished under three heads, viz. common searches, head Clerks' searches, and negative searches. It is only in some instances of searches coming within the first of these classes, which are almost always made without any other intervention of the Office than the attendance of a Clerk to furnish such books as may be called for, that the appointed search fee of 6*d*. has been claimed without addition. The fee actually paid on such occasions is represented to be sometimes 5*d*. and sometimes 10*d*.; the variation arising from the subdivisions of the silver currency of this country. There is further incident to searches of this description the claim of Mr. George Moore for references to the indexes before alluded to, compiled by his father, and denominated "the short books," amounting to one shilling for each of such books referred to. In these searches also extracts of Memorials are frequently taken by the parties themselves, and there is a claim of 6*d*. or 6½*d*. for each such extract, without any official service. An instance of so many as seventy such extracts occurring in a search of this kind has been stated, for which the charge amounted to 1*l*. 17*s*. 11*d*. This claim appears extremely unreasonable. We propose that in future every person having access to the books for the purpose of search, shall for each search pay a fee of 2*s*. 6*d*., and be thereby exempted from any further demand on account of extracts taken by him in the progress of such search. The proposed alteration will produce an actual saving in every instance where four or more extracts are requisite, in addition to such saving as may arise from dispensing with the fee on the short books.

In proposing to exclude any claim for search in "the short books," the right which Mr. George Moore asserts to remove these books from the office, regarding them as private property, requires to be noticed; since, from their unquestionable utility, a great convenience would be lost by their removal, although the means of forming similar indexes would still remain in the office. We do not feel that it is required of us to pronounce an opinion upon the legal question of Mr. George Moore's hereditary right to this work. Whilst we cannot avoid recommending that means may be taken to secure the continuance in the office of it, or of indexes similarly arranged, but of more durable materials, it is right to observe, that whatever convenience the public may have derived hitherto from the use of these indexes, they cannot but have been a source of great pecuniary advantage to the compiler and his family. Mr. George Moore states that the expense of the compilation, besides much labour, was very considerable; and that the actual profit, confined to the fees received from individuals resorting to them in common searches, has not exceeded 20*l*. per annum. Their justly avowed merit consists in a great abridgment of official labour, which must be accompanied by a diminution of expense to the office. To the public there has been no such concurrent effect; on the contrary, a

App. N^o 18, Q. 59.
75, 77, 78.App. N^o 13, Q. 137.
139, 414.App. N^o 14, Q. 5.6 Ann. chap. 2,
sect. 11.App. N^o 14, Q. 10.
14, 18.App. N^o 14, Q. 158.
App. N^o 15, Q. 37.

Ibid, Q. 38, 39.

App. N^o 15, Q. 360.
363.

REGISTRY OF
MEMORIALS, &c.

vast increase of the office charges has accrued, within the period of more than thirty years, during which these books have remained in the office, upon the services which they are calculated to facilitate; and these services are still attended with the most onerous, and frequently disproportioned expense. The ascertained profits derived from these charges, up to the time of Lord Kilwarden's accession, have been appropriated for the benefit of the claimant of the books, or his relatives. Whether the motives and fair expectation of the author have or have not been fully satisfied, therefore, the public have already paid largely for the accommodation. In appreciating this compilation as "private property," it will naturally occur, that for any other purpose than that to which they are now applied, they must be entirely without value; and being formed of paper, and therefore calculated only for temporary use, their worth to the public, beyond present convenience, may be estimated at the difference of expense in providing permanent transcripts from them, instead of a new compilation of similar indexes from the records and original indexes remaining in the office.

The Officers consider that their duty, under the statutes, does not extend to making the searches, which are now designated head Clerk's searches; Mr. Oliver Moore would so far narrow the import of the statutes, and the duty of the officer, as to exclude from both any search for the appointed fee, but such as is limited with reference to "a particular deed;" and a search coming within his definition, it might be supposed, from part of his evidence, had never occurred. It is to be observed, however, that upon every search, whether negative or head Clerk's search, and whether made by the Office Clerks or by the public, a fee of 6d. has been claimed for the Register, as his right, under the statute, whatever may have been the excess of the actual demand.

The charges upon head Clerk's searches, previous to Mr. Ogle's appointment, were 2s. 8½d. for every ten years comprised in the period of the search, and 1s. for each (extract or) abstract. During Mr. Griffin's deputation these rates seem to have been considered by him as established; but these charges did not constitute the whole of the claims in all cases; for he was in the habit of making a further discretionary charge when the search occasioned much trouble or additional expense, by the number of references, for which the Clerks were paid. On the accession of Lord Kilwarden, discretionary claims are represented to have been abandoned. The rates of the above-mentioned heads of charge were increased in such a proportion as was supposed certainly not to exceed Mr. Griffin's charges. The charge for the period of search was raised from 2s. 8½d. to 3s. 4d. for every ten years, and that for each (extract or) abstract, from 1s. to 1s. 6d. In the first of these items the difference between the two rates, taken singly, would by no means show the augmentation of the gross charge; for this charge being repeated with each variation of the initial letter of the parties' names, or denominations of lands searched upon, a repetition of the increase became included of course. An illustration of this effect will be found in considering the corresponding charge, founded upon this and applied to negative searches.

From the nature of Mr. Griffin's practice as described to us, it appears impossible to ascertain the proportion which the augmentation of these rates of charge may really bear to his discretionary charges; but it is essential to observe that he only represents his discretionary additions to the amount of the fixed rates to have been occasional, whereas the increased rates now in use are applied uniformly. With respect to the increase of the abstract fee, Mr. Oliver Moore has stated that he thought it only "a reasonable increase" from 1s. 1d., which he believed to have been the sum paid about forty or fifty years ago. Mr. George Moore states that he believes there was not any fixed rate of charge for abstracts at the time of Lord Kilwarden's accession; and that the charge of 1s. 1d. had been a very long time discontinued before Mr. Ogle's death. Mr. Griffin states that the charge for an abstract, during the whole of his deputation, and up to the time of Lord Kilwarden's accession, was one shilling; and notwithstanding the supposition that the charge had ceased, it is admitted that the Clerks were always paid at a certain rate for every abstract taken by them; and that Mr. Griffin accounted to Mr. George Moore for sixpence for each abstract contained in each of his searches during the whole of the period referred to. The contents of an abstract are estimated at an average of about 72 words, counting figures (which make a considerable part of each abstract) as words, although there is not expressly any allowance

App. N° 15, Q. 52,
55, 56.

App. N° 14, Q. 59.

App. N° 15, Q. 347,
435.

App. N° 18, Q. 79.

App. N° 15, Q. 426,
427, 428.

App. N° 19, Q. 214.

ance under the statute for what are called abstracts, the provision concerning copies may be construed to admit them, and the fee of sixpence, as for the first sheet of a copy, held applicable to the average contents of each abstract, although it would exceed the rate of general payment contemplated by the statute per sheet of 100 words, considering the actual contents of an abstract, the fee of sixpence must be deemed an ample payment. The augmentation and establishment of the claim for abstracts at a rate which is three-fold that amount, do not appear justified on any ground of right or reasonableness, and are the more open to remark, because all official responsibility concerning such abstracts in head Clerks' searches is disclaimed; and instances of erroneous searches of this description are admitted to have occurred. They are nevertheless a source of very great profit, in one instance so large a sum as 31 £ 10 s. 8 d. was charged, of which the allowance to the Clerks for effecting the search, was but 9 £ 8 s. 2 d. The average of the annual gross charge under this head has been, in the five years subsequent to Lord Kilmorden's accession, 1,872 £ 2 s. 3 d. Mr. Oliver Moore states that he does not consider the payments demanded for these searches to be claims, "but a remuneration to the person making the search, or causing it to be made, for his labour." But this title to payment does not extend to the whole of the receipts under this head; for they frequently accrue upon searches made by the public, without any assistance of the officer: the claim in these instances seems altogether without pretext. The emoluments thus derived are now applied to the general fund of the office, and distributed under the provisions of the award before referred to.

The professional charges incident to the searches above mentioned may be noticed here, as connected with the official charges, which were regulated by Mr. Oliver Moore (who is himself a solicitor, and upon whose authority in that character we here rely) in part with reference to the professional charges. He states that, to the extent of his knowledge, the mode of computing charges on searches by periods of years has prevailed amongst solicitors for five or six years; and offers such practice, and the allowance of a taxing officer upon a single occasion in his own professional practice, as authority for his adopting a charge of 6 s. 8 d. for every ten years searched, besides 3 s. 4 d. for each abstract. It is obvious that the principle of charge by years gives an interest in the prolongation of a search. It seems probable that its adoption may be traced to the frequent practice of solicitors making searches themselves, or by their Clerks, and applying to searches so made heads of charge in use in the Registry Office; thus it may be conjectured that the charge of 2 s. 8 ½ d. formerly in use in the Registry Office, or more probably the higher rate of 6 s. 8 d. adverted to by Mr. Griffin, suggested the corresponding professional charge. Mr. Oliver Moore, reverting to the precedent, appears also to have had some reference to the professional standard in fixing the official demand. The acquiescence of professional persons in the reasonableness of a charge not exceeding half their own, was very natural; and by such declared acquiescence it is attempted to justify the increase from 2 s. 8 ½ d. to 3 s. 4 d. in the official charge. The professional charges above mentioned appear to us very unreasonable, and to afford no justification for official demands. They become the more oppressive, because they appear to be added to the official claims, whether the search be made by the office, or not. Under the system we have to recommend, we do not contemplate the continuance of such allowances; and by their cessation a very great saving beyond the diminution of the official claims will ensue.

A head Clerk's search almost always precedes a negative certificate, and it is stated that a saving of expense results to the public from such search being furnished previous to the giving negative certificates; as by means of the abstracts contained in what is called the head Clerk's search, a party is enabled to except and exclude copies of unnecessary Memorials from such certificates. The fees on negative certificates are represented not to be regulated by statute; an assertion which seems to rest upon the alleged silence, as to fees, of the statutes which prescribed these certificates. The original Registry Act generally provided that the Register should be allowed, for every search in the office, 6 d. and no more; and 6 d. for the first 100 words, and 3 d. for each 100 words after the first, contained in every certificate, or copy, given out of the office. The Act of the 8th Geo. I. was intended merely to remove a doubt which had arisen respecting the liability of the Register to give a negative certificate; and the Act of the 25th Geo. III. was made with the avowed object of reducing the expense incident to obtaining certificates in the form prescribed

REGISTRY OF
MEMORIALS, &c.

App. N^o 14, Q. 27, 28.

Ibid, Q. 68, 69.

App. N^o 27.

App. N^o 14, Q. 48

Ibid, Q. 28, 95, 163.

Ibid, Q. 436 to 453.

App. N^o 10, Q. 65.

App. N^o 14, Q. 124.

App. N^o 12.

App. N^o 15, Q. 283.

App. N^o 25, Q. 11

& 16.

App. N^o 35, Q. 21.

24, 25, 26.

App. N^o 14, Q. 110.

App. N^o 15, Q. 258,

259.

App. N^o 13, Answer

to Q. 68, after 75.

REGISTRY OF
MEMORIALS, &c.
App. N^o 13, Q. 91
to 96.

scribed by the 8th Geo. I.; but the fees provided by the original Act not being varied or repealed, must, we conceive, be considered as applicable to the services thus defined; and it appears that in practice, down to the time of Mr. Ogle's accession, they were so considered.

Under the Act of the 25 Geo. III. cap. 47, a negative certificate may be demanded from the Officer, purporting that no Memorials, coming within the terms of the instruction, required to be delivered on such occasions, are upon record, that are not set forth in such certificate. The instruction for a search required to be so certified, which is called a negative search, must specify, in a form prescribed by the statute, the names of the parties, the denominations of the lands, and the period for which the search is required. By these means the Officer is enabled, at his option, and for his security against the responsibility he incurs by the certificate, to effect such searches, both on the lands' and parties' names indexes. In practice, a negative search is thus constituted of a double search. Under the prevailing distinction, either of these searches demanded singly, that is to say, a search for acts done by an individual, or concerning a town-land, specified, would be deemed extra-official. Under the alleged silence of the statute respecting the fee on negative certificates, a fee per sheet has been actually taken, but at the increased rate of 1s. upon each sheet, instead of 6d. upon the first and 3d. upon each succeeding sheet, the adopted sheet consisting of 72, instead of the appointed number of 100 words. Other charges have been introduced, as will shortly appear, bearing no analogy to the separate appointed search-fee of 6d.

It has been observed, that the charge of 1s. 6d. for each abstract is equal to the parliamentary allowance upon copies of Memorials whose contents do not exceed the officiating Deputies' highest average of Memorials of ordinary length; consequently, each person obtaining a head Clerk's search, pays, under the head of abstracts alone, as much as would entitle him, under the parliamentary provisions, to entire copies of the Memorials from which these abstracts are taken; and it is obvious, that if full copies, instead of abstracts, were given in head Clerks' searches, none would be required in the form of a negative certificate. Upon the average above stated of the contents of copies, the price of a negative certificate, according to the legal rates of demand (minus the search fee), is paid for abstracts in a head Clerk's search; and thus the expense of procuring a negative certificate, preceded by such a search, would appear not only not to be diminished, but to be positively increased, in every instance, by the amount of the subsequent charge for copies at length, contained in such certificate. But this is by no means the extent of the fallacy of representing that a saving ensues from the adopted system. The charge upon the periods in head Clerk's searches may be estimated as equal, upon an average, to the charge for abstracts; whence it follows, that the average expense of procuring a head Clerk's search is double the legitimate demand for an authentic negative certificate of the same tenor; and this excess is again aggravated by the whole amount of charge subsequently incurred in those cases where such a search is followed by a negative search

and certificate. The assertion of the Officer, so contrary to this result, can be referred only to a comparison of the charges that are made to apply to head Clerks' searches and negative searches respectively. There is reason to believe that prior to the appointment of Mr. Ogle, (in the year 1784) the Register's emoluments, from negative searches and certificates, were strictly confined to the legal fees. During his appointment also, it would appear that the search fee accounted for to the Register, did not exceed sixpence; but that about the year 1806, (the year in which the agreement between Lord Kilwarden and Mr. Moore was entered into,) his portion of the charge upon copies, had grown to the rate before mentioned, of sixpence per sheet of seventy-two words. So far back as we have been able to trace, a claim, never less than one guinea, seems to have been made by the Deputy for each negative search and certificate. In Mr. Ogle's time, this claim was increased to an extent which cannot be ascertained. Mr. Griffin, though he avows himself unable to state what would have been his charge on a specified negative search, adverts to certain rates of charge, as presenting together, to the best of his recollection and belief, a fair general average of his gross demands for such searches. The rates of charge so adverted to, are "about 6s. 8d. for every ten years for each name, and 3s. or 9s. for each Memorial," included in the certificate. For some time subsequent to Lord Kilwarden's accession, the charge for negative searches was still regulated by the discretion of the officer; and the copies of Memorials in the certificate

App. N^o 13, Q. 95 &
350.

App. N^o 19, Q. 91
to 95.

Ibid, Q. 96, 97.

App. N^o 18, Q. 59,
73, 74,
1616, Q. 65 to 68.

App. N^o 14, Q. 166.

tificate, were charged for at the rate of 1s. per sheet of seventy-two words. Within this period, objections were made to certain discretionary charges, in two instances, in which the demands amounted to the respective sums of 120*l.* 12*s.*, and 84*l.* 13*s.*; the former including stamp duty, the amount of which we have not been able to ascertain; but the latter exclusive of any such expense. The allowance to Clerks, in the first of these searches, was between 30*l.* and 40*l.*; and in the last, between 20*l.* and 30*l.* Mr. Oliver Moore, who made these claims, cannot state what was the amount of the discretionary charge in either case so objected to; and it appears, that at the time he was unable to state on what principle it was made: nevertheless, he considered the charge a reasonable charge on behalf of the Register or Deputy, being informed by the Clerks in the Office, that such a search prior to his time, would have been charged for at the same rate. The inconsistency of an opinion of the reasonableness of charges which were not referable to any known principle, is striking; and it is not surprising that Mr. Oliver Moore should now confess his conviction that those charges were unreasonable. It is remarkable too, that Mr. Oliver Moore here refers to a rate of charge previously known in the Office, although it is elsewhere stated that Mr. Griffin's practice was unascertained. It would appear further, from his evidence, to have been partly owing to these objections, that the present mode of charge was introduced. The rates of charge fixed in consequence, were 10*s.* for each period of ten years comprised in the search, with the fee of 1*s.* per sheet of seventy-two words on the copies contained in the certificate. The 10*s.* fee, like the similar fee on the head Clerk's search, is repeated; but here the repetition is not limited by the actual number of names beginning with different initials, on which this search is made, but is applied either to the number of parties' names, or denominations of lands, as the one, or the other, may happen to be the highest. The principle on which the charge of 10*s.* for each period of ten years was regulated, according to the evidence of Mr. Oliver Moore, was a supposed "proportion to the payment on head Clerks' searches, the negative being constantly made both on parties' names, and on the lands, which be thought to constitute a double search of the nature of head Clerks' searches," (each subject to the charge of 3*s.* 4*d.*) "and the other 3*s.* 4*d.* was charged for comparing the exceptions of the negative, and the responsibility of the Officer." It might be supposed that the Officer would adhere to his own conception of the extent of the service, when he assumed the right, and incurred the responsibility, of adapting a charge to it; but this is by no means the case in practice; for inasmuch as the head Clerk's search is first paid for at the single rate applied according to the number of names, and a treble rate of charge is subsequently demanded upon what is called the negative search, it becomes in fact subject to a fourfold rate of charge; and this may be stated of every instance of a negative search preceded by a head Clerk's search. The extent, however, of the repetition is not necessarily limited to this proportion; for if the head Clerk's search should be effected upon the parties' names, and the number of denominations of lands beginning with different initial letters, on which the second search is made, should happen to exceed the number of the parties' names (also having different initials), the higher rate of charge of 10*s.* is applied to the denominations of lands; or vice versa if the first search should happen to be made on the greater number, the increased rate of charge upon the second would be applied to the names, or denominations contained in the first. As an example of the first kind, in a search for a period of fifty years upon three parties' names concerning twelve denominations of lands, all having different initial letters, the charge for the head Clerk's search upon the parties' names, excluding abstracts, would be 2*l.* 10*s.*; the second charge for the denominations of lands would be 30*l.*; making a total charge on the negative search of 32*l.* 10*s.*; and thus by the introduction and application of the increased rate upon the second search, in the case supposed, instead of being chargeable as a double search, according to the principle adverted to by Mr. Oliver Moore in explaining the formation of the charge, it would become equal to 36 head Clerks' searches: this example is given to illustrate the objectionable result of the mode of charge. The instances of such extent of charge since the adoption of the practice are not numerous. A comparison with the rate of charge adverted to by Mr. Griffin, as before mentioned, of 6*s.* 8*d.* for every ten years in a negative search, would show an increase of one half in the rate of charge now in use; but no such precedent is admitted by the Officers. Mr. Oliver Moore states, that formerly there was no charge as for years upon negative searches; and Mr. George Moore, who for fifteen years participated in

App. N^o 14, Q. 168 to 176.

Ibid, Q. 172.

Ibid, Q. 170.

Ibid, Q. 169, 174.

Ibid, Q. 176.

Ibid, Q. 5.

Ibid, Q. 169.

Ibid, Q. 48.

Ibid, Q. 444.

Ibid, Q. 149.

Ibid, Q. 444.

App. N^o 14, Q. 443, 444 & 445.

Ibid, Q. 149.

App. N^o 18, Q. 65, 66, 67.App. N^o 14, Q. 153, 162.

App. N° 13, Q. 216, 227. Mr. Griffin's charges, states that he never knew any fixed rate of charge. In the absence of any precedent, the charge of 10s. must be considered as having been adopted by the Officers themselves on their own authority. The facility with which the previously increased rate of the similar charge on head Clerks' searches was adopted as the basis of the charge applied to the negative search, and its effect in the multiplied ratio of the application of the latter, cannot escape observation. With such instances in proof, however, it may be urged that the use of that discretion, to which Mr. Griffin's irregularities and exactions are referred, has ceased, whilst the provisions of the statutes (when not specially enforced by a pecuniary penalty) are deliberately disregarded, and the power of discretion by the present Officers would seem to have varied from that example only in assuming more specific forms. We are unable to discover sufficient ground for the assurance of Mr. George and Mr. Oliver Moore, that if any accidental alteration of the established charges has occurred, "it consists in diminution and not in increase." Applying it to certain rates of charge, we have shown that it cannot be relied upon. Mr. George Moore has been unable to mention any instance of a diminution of charge under any general head. He states, that under certain productive heads of charge the books of the Office afforded no precedent; and that as to one of these, the claims were so variable, that he could not form even an estimate of the amount taken and accounted for to his own use. An extension of a departure from positive provisions by statute, could be found only in its reasonableness and moderation. The adopted claims for services for which such provision is made, are not so recommended. The circumstances under which Mr. Griffin acted, and the imputation accredited by the Officers themselves concerning his conduct, render an attempt to excuse their practice by his precedent the less admissible. Our former observations with respect to the fee per sheet upon copies, apply in the greatest extent to negative certificates, as the fee of 1s. per sheet of 72 words is levied upon Memorials therein set forth at length. By the modification before proposed concerning the contents of negative certificates, such copies will be excluded.

As the repetition of the charge upon names does not secure a fair measure of expense in proportion to the service, so the adoption of the period comprised in a search, as an absolute criterion of charge in all cases, leads to a very disproportionate demand in some. It will be understood, from a former part of this report, that the actual labour and responsibility concerning searches, are proportioned to the number of references, which the extent of the period by no means regulates: a great number of references may occur in a short period, or very few in a long period, according as the acts comprehended in the term of the search have been in either case numerous or unfrequent. By these, and by the abstracts, it appears, upon the whole, the charge upon searches may be most fairly determined. It is now the practice to regulate the Clerk's payments in part by an allowance under each of these heads; and, though with respect to the former, the difficulty of checking the number actually necessary may be objected, this mode of payment has the strong recommendation of providing a security against omissions, and so tends to full and more certain accuracy in the search. Besides the officer's responsibility concerning any undue claim, a further provision against such a contingency may be established in giving the parties a right to demand a return of the actual references for which payment is required. On these grounds we propose that the claim calculated upon the period contained in a search shall entirely cease, and that the charge upon searches certified by the Officer shall be rated upon references and abstracts only. We propose to establish a general rate that shall comprise the minor searches under two classes; that for every search where the references shall not exceed twenty, the uniform charge shall be 6s. 8d.: when the references shall be more than twenty, and shall not exceed forty, 10s.; and that the more extensive searches, wherein the references shall exceed forty, shall be subject to a further charge of 2d. for each additional reference. The fee for each abstract we propose to fix at 6d. By these means, the security which a certificate, under the responsibility of the officer, must be calculated to afford, will be obtained in each case, and in a very great number of instances, for a less payment than is now demanded for those searches concerning which all official responsibility is denied.

Searches are so variable in their tenor that it would be impossible to form such a precise comparison as should show the different results of the present and the proposed future charges in each case. In every search, however, the reduction we have recommended in the charge for an abstract would effect a saving of two-thirds of the expense arising from the present demands on this head. This saving alone, in a search alluded to in a former part of this Report, would have amounted to 19*l.* 18*s.* If we compare the charge on the period, applied according to the number of names (which constitutes at present the other head of the search charges,) with that which is proposed on the references, and apply the comparison to the fixed rates of demand suggested for the minor classes of searches, the result will be that in the simplest imaginable case, of a search limited to ten years for the acts of one party on one denomination of land, where the references shall not (as it is very improbable they should) exceed twenty, the difference between the proposed charge and that now in use, besides the saving upon abstracts in the proportion above mentioned, will be 3*s.* 4*d.*, the charge calculated as at present, being 10*s.*; and the fixed rate we have recommended being 6*s.* 8*d.* This must be understood to be the minimum of saving in any instance that could possibly come within the above definition, and to be susceptible of great increase with an extension of period or a multiplication of names, so long as the references shall not be more than twenty. This further effect may be shown sufficiently by taking a different example in the next proposed class of searches, where forty is the limited number of references. It is a moderate supposition that in a search for fifty years upon two parties' names, and two denominations of lands, forty references may not occur. The present charge for this search would be 5*l.*, the charge we have recommended 10*s.* It only remains to offer an example, not coming within either of the proposed general limitations, by the number of references. It is clear that the saving must be comparatively less in proportion as the references are numerous. In selecting therefore the very unusual instance alluded to before (and in the evidence) where so many as 1,514 references are said to have occurred, our object is by no means to magnify the advantage of the contemplated alteration of charge in the saving of expense; but rather to show that where great labour is really occasioned, a proportionate charge, much more moderate than the present demands, will properly attend it. The charge for the head Clerk's search above alluded to was 31*l.* 10*s.* 8*d.*, including the expense of 396 abstracts. A negative certificate upon a search of the same tenor, under the present system, would cost the party 44*l.*; thus the total charge would be 75*l.* 10*s.* 8*d.*, exclusive of the charge on copies, which we have no means of calculating, but which could not fail to form a very considerable addition. The charge for a negative certificate upon a corresponding search, in the mode we have suggested, allowing the references to be doubled by the search being made both on parties' names and on lands, and allowing the same number of abstracts, would be 35*l.* 6*s.* Thus the saving, even in such an extreme case, independent of that which cannot be computed upon copies, would be more than half, and the expense of obtaining the Officer's certificate under the proposed modification, would exceed very little the above-mentioned charge for the extra-official or head Clerk's search, in the case referred to, which is far from affording an illustration, of the extent of the reduction in the majority of searches that would be subject to the same scale of charge.

App. N° 14, Q. 64, 65.

Ibid, Q. 441, 442.

It will be sufficiently collected from what has been stated, that the Officer's transgression of the statutes has not been opposed by any effectual control from the taxing Officers.

The Statutes do not recognise any claim under the heads which remain to be noticed. The two next in the Table are charges for attendance, either in Dublin, in the Courts, or at any Public Office; or in the country, with Memorials required to be produced in evidence. This service in either case is performed by a Clerk. It appears that the charge to the party for an attendance in Dublin during Mr. Griffin's acquaintance with the office, was always 1*l.* 2*s.* 9*d.*, and the allowance to the Clerk something trifling, never more than four shillings. At present the charge remains the same; but the Clerk's allowance is stated to be only 2*s.* 6*d.* The demand, when the attendance is in the country, is of much greater magnitude. It is expressed, in the joint return of the three Deputies, to be "for every day allowed for travelling and attending, 2*l.* 16*s.* 10½*d.*" The claim under this head, according to Mr. Griffin's evidence, for some years after 1799, was 2*l.* 5*s.* 6*d.* a day; and the

App. N° 15, Q. 107 to 110.

App. N° 16, Q. 32.

App. N° 6.

App. N° 18, Q. 93, 94-97.

number

number of days was computed, with reference to the distance the Clerk had to go, thirty miles being considered equal to a day, and about two days calculated for his stay at the assize town. He states that ten was the greatest number of days charged for, or, as he expresses it, "originally stipulated for," and that the charges so calculated were paid before the documents left the office. Out of the sum thus charged the Clerk was paid 13*s.* per day. The increase of the rate per diem to 2*l.* 16*s.* 10 $\frac{1}{2}$ *d.* Mr. Griffin states to have been made at the desire of Mr. George Moore; and the only reason he recollects to have been assigned, was a similar charge in the Prerogative Office. Upon inquiry we find a similar charge is made in the Register's Office of the Court of Prerogative, for sending wills to the country; but the application of the demand and its distribution are not the same. Custom only has been offered as the authority or justification of the claim in that office. The sufficiency of that plea, with reference to the demand there made, it would be irrelevant to consider here; but the practice adverted to cannot be admitted, nor, if admitted, would it be altogether applicable, as a precedent to warrant the demand under consideration. Mr. George Moore allows that this increase of charge was made with his sanction; and assigns another reason for it in the Clerk's claim for an increased allowance. As the latter was augmented only by 5*s.* 5*d.*, making his total payment 18*s.* 5*d.* per day, including travelling expenses, whilst the addition (11*s.* 4 $\frac{1}{2}$ *d.*) was more than double that sum, this reason is quite inadequate to the increase; and it seems probable that it may be truly attributed to a disposition to assimilate, by increasing charges, where a resemblance of service can be offered in excuse, without examining the legality or fitness of the adopted standard. The effect of this increase, like other instances, is not to be appreciated by a single application of it. In the scale by which the number of days is computed by the distance, the lowest charge in the first instance, is 8*l.* 10*s.* 7 $\frac{1}{2}$ *d.*, being equal to three days, and the highest 28*l.* 8*s.* 9 $\frac{1}{2}$ *d.*, calculated as for ten days. The first of these rates is applicable to any distance not exceeding thirty miles, and the latter to the greatest distance of any assize town from Dublin. But these sums paid in the first instance are not the limits of the demand; for if the Clerk is required to remain after the day on which he is directed to be in attendance, a charge is made for an additional day; and thus it happens that the attendance is twice charged to the same party: for example, a Memorial being required to be sent to Cork, a preliminary payment of 28*l.* 8*s.* 9 $\frac{1}{2}$ *d.* is required. Allowing two days for the Clerk's journey, and the same for his return, six days remain of the ten which have been paid for: but if the Clerk is detained after the first day of his appointed attendance, an additional daily fee is required, although the number of days comprised in the original payment have not expired; and for so many days as are considered "additional days," within that period, a double payment, making five guineas a day, is thus exacted. The allowance to the Clerk, if confined to the number of days actually consumed in travelling and attendance, would not suffice to pay his expenses: whether it be owing or not to this consideration that a greater number of days is included in the scale of calculation, it is certain that the officer's emolument is enhanced by this mode of computation much beyond the rate set forth in the return. For instance, when a Memorial is sent to Cork, or any other place of the like distance, the Clerk being occupied five days (excluding any extra attendance), and his allowance being 9*l.* 4*s.* 2 *d.*, the Officer's profit from the residue of the total charge would be equal to 3*l.* 16*s.* 11 $\frac{1}{2}$ *d.* a day for the real duration of the service; and again this rate is susceptible of repetition; for when the same Clerk takes Memorials for different parties to the same town (or to different towns on the same circuit), charges are made against each party; and in one recent instance payment has been received from both the parties in the same cause. This occurrence is attributed by the Officers to very peculiar circumstances; the second payment being represented to have been taken at the instance of one party, for the purpose of concealing from the other the fact of his adversary having procured Memorials, with a view to prevent his knowledge of the nature of the evidence to be produced upon the trial. The sum received in the first instance was 36*l.* 17*s.* 6 *d.*, viz. 28*l.* 8*s.* 9 $\frac{1}{2}$ *d.* from each party; and in addition thereto a demand was made against each party by the Clerk at the Assizes, for two additional days, amounting to 11*l.* 7*s.* 6 *d.* This demand, it appears, was resisted by both the Attorneys concerned, until the Clerk threatened to leave the town; but, apprehending he was determined to put his threat into execution, and having ascertained by inquiry that the demand was customary, one of the agents was induced to pay the further sum of 5*l.* 13*s.* 9 $\frac{1}{2}$ *d.*; the other persisted in his refusal. The total payment

App. N° 13, Q. 102, 197.

Ibid, Q. 94.

Ibid, Q. 98.

Ibid, Q. 99, 100.

App. N° 13, Q. 177.

Ibid, Q. 131, 179.

Ibid, Q. 152.

App. N° 18, Q. 98.

App. N° 13, Q. 150, 151.

Ibid, Q. 153.

Ibid, Q. 151.

App. N° 13, Q. 144, 147.

App. N° 14, Q. 139.

App. N° 13, Q. 143.
App. N° 14, Q. 140, 141, 152.

App. N° 13, Q. 141.
App. N° 14, Q. 145, 147.

App. N° 13, Q. 96.
App. N° 10, Q. 11, 12, 13.

payment therefore by the parties in this cause (though less than the demand) was 62*l.* 11*s.* 3*d.* The amount, and the unreasonableness of such a payment, and the circumstances alleged by the Officer, led us to institute a further inquiry through the agents concerned. The evidence on this subject will be found to vary materially. It appears that both the agents wished to effect a division of the expense; but that one of them, the defendant's attorney, declined a proposition from the other to that effect, to avoid disclosing his intention to produce Memorials at the trial; but having a knowledge that Memorials were to be sent down to the same town by a party concerned in a distinct cause, and conceiving further that, by a stipulation with the Officer, a division of the expense, as between himself and his adversary, might be made compatible with secrecy, he proposed such a division, with either, to the Officer. He expressly states, that to this proposition Mr. Oliver Moore replied, that "if the messenger was to take down Memorials for the plaintiff, he would insist on the payment of the full sum of twenty-five guineas from the plaintiff, and that he would charge the full sum to both parties, and that such was the uniform practice of the Office;" that Mr. Oliver Moore declined entering into any stipulation that should subject the Officer to any deduction from the sum of "twenty-five guineas, payable in the first instance by each party that should obtain Memorials for that town;" and further, that in order to enforce the custom, and his demand, Mr. Oliver Moore stated, that "if it happened that the messenger should at the instance of any one party, take down any Memorial, and that any other person, whether a party in the cause in which it was taken down or not, wished to give it in evidence, he must previously pay the full fees for taking it down; and that if the messenger should venture to produce such Memorial for such party without obtaining the payment, he would be obliged to pay the amount of such fee to the Register out of his own pocket." Mr. Oliver Moore, on being afforded an opportunity of explanation, has replied to this part of the evidence by a direct negative. To this testimony, as well as that of the attorneys engaged in this cause, we beg leave to refer, avoiding any comment upon the conflicting statements which will there be found. Upon the taxation of the costs of the defendant in the above cause, who obtained a verdict, and had paid 34*l.* 2*s.* 6*d.* the taxing Officer refused to allow more than 20*l.* against the unsuccessful party; and it appearing, on an application made to the Court of Exchequer to direct its Officer to allow the entire sum as a necessary expense, that the plaintiff had also been charged with a sum of 28*l.* 8*s.* 9*d.* for sending Memorials, the Court made an order that the Register should forthwith refund to the defendant, or his attorney, the sum of 14*l.* 2*s.* 6*d.*, and to the plaintiff, or his attorney, the sum of 28*l.* 8*s.* 9*d.*, "being excessive sums received by him, according to the opinion of the Court." The jurisdiction thus exercised by the Court of Exchequer was resisted. Mr. George Moore, however, as he states, professed his willingness to submit to the Judges, or the Chief Judges, the charges generally for sending Memorials to the different assize towns; and made a communication to this effect to the Chief Justice and the Chief Baron; but it does not appear that any regulation of the practice ensued. One of the sums which the Court declared to be excessive, was nevertheless refunded; but, as is expressly stated, not in obedience to the order of the Court. Mr. Oliver Moore being asked whether this sum was demanded merely for the purpose of maintaining secrecy, and not with an intention of ultimately retaining it, answered, that he could "not say what was the intention at the time, though he was certain, "if the repayment had been demanded, it would have been made." It is remarkable that, in the receipt taken by the same Officer for this same sum (of 28*l.* 8*s.* 9*d.*) refunded to the plaintiff's attorney, it is stated as "being a charge unintentionally made." Having enquired from the plaintiff's attorney what was meant by the words "unintentionally made," since it appeared from his previous evidence that the demand was originally made, and acquiesced in by him, as the established charge, according to the custom of the Office; he replied, that he inserted those words at the request of Mr. Oliver Moore. An interval of three months appears to have elapsed between the payment and the refunding, which latter took place a few days subsequent to the order. The opinion pronounced by the Court on this occasion renders further observation from us unnecessary. Whether the Court was informed of the additional payment taken for the Memorial, or Memorials, conveyed by the same Clerk, to be produced on another trial at the same assizes, has not appeared. That payment was 28*l.* 8*s.* 9*d.*, besides a claim for one additional day by the Clerk, which the agent refused, in consequence of his not having entered the

REGISTER OF
MEMORIALS, &c.

App. N° 35, Q. 2.
App. N° 39, Q. 4.

App. N° 35, Q. 4.

Ibid, Q. 5.

App. N° 14, Q. 256

Ibid, Q. 254 to 260.
App. N° 28 & 39.

App. N° 13, Q. 142.

Ibid, Q. 140.

App. N° 14, Q. 250, 251.
257.
App. N° 23, Q. 142.
App. N° 14, Q. 252.

App. N° 39, Q. 16.

App. N° 23, Q. 15,
27.

record. The total sum received, therefore, on this occasion, for the attendance of one Clerk, who was himself allowed only 11 *l.* 1*s.*, amounted to 91 *l.*, the difference being the Officer's profit: had the whole amount been retained, would have been at the rate of 6 *l.* 13*s.* 3*d.* per diem, upon the number of days for which the Clerk was allowed payment, whilst the actual service performed by the Clerk, including the expense of travelling about 230 miles, and other disbursements, was considered as required by the allowance of 18 *s.* 5*d.* per diem. The Clerk employed on this occasion has expressly stated that, in making the extra claims he followed the instructions of Mr. Oliver Moore and Mr. Armstrong. The Officer has urged responsibility as a reason for a repetition of the charge against different parties; but, inasmuch as the entire confidence is placed in one clerk, in whose faithful custody of the documents the whole responsibility consists, and who, whatever may be the number of Memorials, or the repetition of the charge, is allowed only a single payment, there seems to be an inconsistency between the practice and the plea for it, besides the exorbitancy of the amount of charge so accruing. This claim appears always to have been considered an exclusive perquisite of the Deputy, and cannot be traced to any legitimate authority. The service is represented to be optional with the Officer; but we apprehend authority would be found, if necessary, in the jurisdiction of the superior Courts, to command the performance of it. There are, however, other considerations connected with this service, which the transaction above alluded to particularly suggests. The Officer admits that great inconvenience might arise from putting a party in possession of the evidence of his opponent; but he is of opinion that it is at his option to give or to refuse certain information, so long as he is not bound to secrecy by a personal promise; and in the transaction above alluded to this opinion was reduced to practice. Without affirming that injury ensued to either party on that occasion, we feel bound strongly to deprecate an opinion that would divest the interests of individuals committed to official keeping of any protection but the will of the Officer. This example will support what has been elsewhere observed of the confidential nature of some of the Register's functions. The propriety of a suitable provision for the expense incidental to this service, when required, is obvious, but it probably was not foreseen. The charge which has been created at the discretion of the Deputy Register, and more especially its recent increase, must be considered most unreasonable in its rate, and in its multiplication quite indefensible. It has been amongst the effects of the Award, so often mentioned, to assign to Lord Kilwarden a participation of the profits accruing from such charges. The gross receipts under this head, as returned to us for four years, present an annual average of 276 *l.* 13*s.* 9*d.*, exclusive of attendances in Dublin. We submit, that considerable advantage would result from a provision that attested copies of Memorials should be received in evidence, in like manner as copies of Records issued from other offices, but under certain modifications, which will be detailed in the subjoined regulations. By such a provision suitors would be relieved from a heavy and disproportionate expense, and the original documents preserved from such risk as may attend their transmission from the Office.

A very few instances have occurred, since Lord Kilwarden's possession, of attendances by a Deputy out of the office to take affidavits. On some of these occasions a guinea has been taken, on others half-a-guinea. The latter appears to have been the customary charge, and never to have been exceeded, during Mr. Griffin's experience. Mr. Armstrong states that the charge of 1 *l.* 2*s.* 9*d.* was considered by Mr. George Moore to be too much, and the claim would appear to have been reduced in consequence to the former rate. There is no statutable provision on this head, and the inconvenience that might result from obliging the Officer to give such attendance out of the Registry Office, seems to render such provision inexpedient.

The only source of emolument remaining to be noticed, has been introduced since Lord Kilwarden's accession, and is derived under an agreement with the Bank of Ireland and two private banks; each of which establishments makes an annual payment of a stipulated amount for certain services. In consideration of the sum of 50 *l.* paid yearly by the Bank of Ireland, the directors are furnished with copies of all registered Memorials of anonymous partnership deeds, and have the inspection of a book containing abstracts of all registered mortgages and annuity deeds. For the inspection of this book, under a similar agreement, a yearly payment of 25 *l.* each is received from two private banks. The origin of

this book is explained in Mr. Oliver Moore's evidence, who states that, observing

after he had been some time in the Office, that mortgages had been registered which appeared to him to be "friendly mortgages," for the purpose of screening property from creditors, he conceived that a book containing entries of mortgages and annuities would afford valuable information to bankers, as a means of protection for their security. With this view the book was formed, and the use of it allowed to the above-mentioned banking companies for the respective payments agreed upon. It is also extended to another firm, without any payment, as an indulgence of private friendship, with the concurrence of Mr. Mills (Lord Kilwarden's agent,) and Mr. George Moore. The existence of this book Mr. Oliver Moore states is not generally known, "though he has mentioned it to a great number of merchants;" he conceives the public have not a right to inspect it, nor is it accessible like other books in the Office, not only for this reason, but because the book is generally with the bankers, and is not in the office for more than two or three days in a week; and finally, Mr. Oliver Moore considers "it to be private property," inasmuch as "it is not required by any of the Acts of Parliament." There seems reason to apprehend that a precedent is supposed to have been successfully established, in the claim we have before noticed respecting a former Deputy's compilation of indexes, for creating in this Office, and by means of it, certain beneficial rights or interests, to be absolutely enjoyed by the Officer or his Deputies, or their representatives, as "private property." We have had occasion to notice an instance wherein Mr. Oliver Moore preferred a demand, in deference, as he states, to a feeling of official duty, for the purpose of maintaining secrecy. His introduction of the mortgage book indicates an assumed right of a very opposite character; its declared purpose being to give an arbitrary publicity, at his option and on certain conditions, concerning matters of official record. The book in question has not, either in design or execution, the merit of the work which is the subject of the other private claim, and in some points it is in itself positively objectionable. Mr. Oliver Moore does not undertake to answer for its accuracy, and inasmuch as it contains a general notice of incumbrances by mortgage and annuity, and does not profess to give equal notice of the registered satisfactions of such incumbrances, it is at least liable to convey a misrepresentation of the real state of the property affected, and tends to expose parties to undue discredit and inconvenience, in this respect, by its intrinsic imperfection. The means of obtaining all requisite information respecting the acts which are noted in this book are sufficiently provided, it being the bounden duty of the Officer to satisfy every inquirer, by search and certificate concerning every registered act of whatsoever nature, upon application duly made to him. We are of opinion that the purposes of the institution are thus fully secured by the establishment of certain accessible sources of information, warranted by official responsibility, available whenever and as often as occasion may arise; and that the exercise of a discretion by the Officer, in otherwise promulgating at his pleasure, without any ostensible exigency, under no responsibility for error, and for his private emolument, acts affecting the pecuniary credit of individuals, concerning which he can be deemed only to have official cognizance, exceeds the objects of the Legislature, and any proper privilege of his official situation. It may moreover be doubted whether this book is not an infringement of the Stamp Acts; since it clearly gives opportunity of evading the duties that would be incurred in the prosecution of such searches as are by it rendered unnecessary, or not demanded in consequence of it, and in this point of view, an expedient which produces to the Office a considerable certain income, becomes further objectionable as tending to a diminution of the public revenue. The arrangements respecting this book were, it seems, communicated to Mr. Mills, Lord Kilwarden's agent, and the receipts stated at 100*l.* a year, though the proceeds of what is claimed as "private property," go to the general fund, subject to the distribution of the award.

App. N^o 14, Q. 288,
289, 290, 294.

Ibid, Q. 293, 294.

Ibid, 295.

Ibid, Q. 291.

Ibid, Q. 296.

App. N^o 14, Q. 299.

Ibid, Q. 298.

Ibid, Q. 302, 305.

Having concluded our Observations and Suggestions with respect to the existing claims, and the sources from which the funds of the office should in future be derived, it remains to provide that the latter shall be duly received, disbursed (so far as disbursements may be necessarily authorized) and accounted for. With respect to the receipts, we recommend that the due collection of and accounting for all legal claims, shall form a part of the Officer's duty; and that a book shall be kept in the office wherein each sum received, and the head of service, shall be distinctly expressed. Of the disbursements, the discretion and responsibility of the Officer must necessarily be the limit; but for every disbursement, he should be required to

App. N^o 33.

produce sufficient vouchers. The present allowances to the Clerks accrue under more than thirty heads, some consisting of fractional parts of 1*d.*, others of larger amount, being adapted to certain periods of employment, and others averaged upon gross numbers of entries, or different minute particulars. We cannot undertake to affix to a complex detail of services any certain adequate payments; and can only recommend that the Officer shall be held strictly responsible for the discretion he must exercise in regulating this expenditure. We propose that accounts of the receipts and disbursements shall be rendered according to the subjoined regulations, and the surplus paid quarterly into the Exchequer. The fund accruing from the balances thus from time to time deposited, we propose should be considered applicable to any exigency that may arise for the renewal of the present or the establishment of additional books or indexes; and to make good any casual deficiency, if such should arise, upon the receipts of any quarter to meet the current charges. From this source we contemplate the possibility of defraying, without further charge to the public, the expense of a work we have here to advert to, if it shall be found expedient to introduce it. This work would consist simply of an arrangement of the contents of the abstract books, by extracting therefrom, and placing under the head of each townland, or denomination, each act affecting it, in the succession in which such acts shall have been registered, and accordingly be found entered in the abstract book. This work might be divided into a number of books corresponding with the number of counties, with subdivisions of baronies in each book. We are aware that such a compilation retrospectively from the present books of the office, would be attended with very considerable labour and expense. By means of the abstract book it would become mere matter of arrangement and classification, and present an easy method of continuing, in a comprehensive and simple form, under one separate view, in general heads, a distinct record of all registered acts relating to each denomination of land respectively. The facility of effecting searches upon lands, through an alphabetical index to each such book, is obvious. Looking forward to an inevitable great accumulation of matter in this office, in the progress of time, we suggest the adoption of such an arrangement as likely to deserve consideration at a future period, with a view to perpetuate the objects of the institution.

Another useful object, to which the contemplated surplus of the fund might be disposable with considerable advantage, would be the completion of indexes of parties' names, upon the plan we have proposed, from the year 1785; at which time the similar indexes compiled by Mr. John Moore cease. The books last-mentioned being composed only of paper, and not sufficiently durable, it may perhaps be prudent to cause duplicates on parchment to be provided.

The obvious propriety of providing against the spoliation of the original Memorials, constituting the records of the office, beyond the general responsibility of the Officer for their safe custody, may be exemplified by an act of a very criminal nature, which has transpired in the course of our inquiries. When a party requires access to an original Memorial, it is the rule of the office that a Clerk (who is, however, not sworn, and gives no security for good conduct) shall attend: notwithstanding this precaution, it was lately discovered that a Memorial had been mutilated, one word having been cut out in such a manner as to leave no doubt of the act being attributable to design. Upon an examination of this Memorial, and the transcript thereof, it appears that the deed to which it referred, being a marriage settlement, was intended by the settler to secure to his wife (in the event of her surviving him and having issue), one-third part of his property. The word "third" was cut out, and appears to have been a word of very material import. So gross an attempt at fraud led us to inquire particularly as to the possibility of any collusion in the office. Mr. George Moore states that he took considerable pains, as was the duty of the Officer, to trace this act; and by the result of his investigation he has felt himself warranted in exonerating every person employed in the office from any participation in the transaction. His evidence seems to point to the natural conclusion, that the attempt must have been made by some person interested in removing the word. We think it should be hereafter enjoined, as a duty of the Officer, not to permit the inspection of or access to any Memorial by any person not employed in the office, except in his presence.

App. N^o 13, Q. 103.
217.

Ibid, Q. 107.

Ibid, Q. 108.

Ibid, Q. 109.

App. N^o 13,
Answer to Q. 68.
after Q. 75.

* Some supposed defects in the Registry Acts, will be found suggested in the evidence, the consideration of which, as involving the policy of the law rather than official regulation, we do not deem it expedient to enter into. The most material of these are, the omission

omission of uses and trusts in the prescribed contents of Memorials; and the exemption of leases, for a term not exceeding twenty-one years, from the provisions of the Registry Acts.

The Statute, in dispensing with the Officer's attendance on holidays, does not express what days shall be so considered. The holidays kept in the office are numerous, being no less than twenty-one in a year. The importance of the date of Registries in fixing the priority of acts according to the order of time in which they are registered, renders it essential to limit as much as possible any interruption of the official attendance necessary for that purpose. The rule observed in the offices where judgments are entered, not only presents an analogy, but the competition for priority, which may occur between the entering of judgments and the registry of deeds, suggests a positive necessity that the facilities for both should be equal. In these offices Sundays only are excepted from the transaction of business: we propose to add Good Friday and Christmas Day as days of non-attendance in the Registry Office; presuming that it will be deemed proper also to prevent the entering of judgments on those days, in the offices alluded to.

The following are the REGULATIONS which we propose, to give effect to the preceding recommendations:—

THAT one Officer be appointed to hold the office of Register of Deeds, during good behaviour; who shall nominate one Assistant Officer, and no more, for the execution of the duties of the said office; for whom the said Officer shall be responsible.

That every person so appointed shall enter into recognizance, jointly with sureties; of whom, the Assistant nominated by said Officer shall be one, in the sum of _____ for the faithful execution of the duties of the said office.

That such Assistant shall not be competent to act until the recognizance, wherein he shall have joined as required, shall be lodged in the office of the Remembrancer of the Exchequer.

That upon complaint made before any of His Majesty's superior courts of law, of misconduct or neglect by any Register, the complainant shall be entitled to a summary hearing and adjudication: That if the Court shall be of opinion that proof of misconduct or neglect has been adduced, the senior Judge present at such hearing, shall forthwith cause a copy of the judgment of the Court to be laid before the Chief Governor or Governors of Ireland, who shall thereupon have authority to remove such Officer.

That the Assistant, nominated as above, shall be liable to be forthwith removed, either by the Chief Governor or Governors of Ireland, or the Register, in case of misconduct or neglect proved (in like manner as against the Register) before any of His Majesty's superior courts of law, but not otherwise, during the continuance in the office of the Register by whom he shall have been nominated.

That no Assistant so nominated shall have liberty to resign his situation, without three months' previous notice in writing given to his nominor, and also to the Chief Governor or Governors of Ireland, unless with the consent of the Register and the sanction of the Lord Lieutenant.

That if any Register shall die, or resign or forfeit his office, the Assistant nominated by such Register shall continue in his office, and shall be answerable for the execution and discharge of all the duties thereof, until another Register be appointed.

That the recognizance shall remain in force _____ years after the death, forfeiture, or resignation of any Register or Assistant Register, and then become void, if no misconduct or default by either party shall have appeared.

That the Register and his Assistant shall give daily attendance for the dispatch of business, between the hours of ten and four o'clock, in the office for registering deeds, every day except Christmas Day and Good Friday, and Sundays.

That it shall not be lawful for the Register to absent himself from the office for any period exceeding _____ without written permission from the Chief Governor or Governors of Ireland, except in case of necessity from illness, whereof

a medical certificate shall be transmitted, to be laid before such Chief Governor or Governors

That it shall not be lawful for the Assistant to absent himself, except in case of necessity from illness, without written permission of the Register, on pain of forfeiting his situation; and that such permission shall not avail for a longer period than without the approbation in writing of the Chief Governor or Governors of Ireland; that any Assistant absenting himself for a longer period, without such approbation, shall, on proof thereof by any person before any of the Judges in any of His Majesty's Courts, be liable to a penalty of

That a salary of 1,500 *l.* per annum be allowed to the Register, and a salary of 1,200 *l.* per annum to the Assistant Register.

That it shall not be lawful for the Register or his Assistant to grant a certificate of the registry of any Memorial which shall not specify the barony or parish, or both, wherein any lands or premises intended to be affected by such registry are situate.

That to enable the Officer to ascertain the fees, and also to regulate the payment to the Entering Clerk, every Memorial, of which a registry shall be demanded, shall have endorsed thereon a certificate, to the effect that the contents of such Memorial do not exceed hundred words; which certificate shall be signed by the person demanding such registry; and if any Memorial shall be found to contain more or less by 100 words than the number of words expressed in such certificate, the person who has subscribed such certificate shall be liable to a pecuniary penalty.

That a book, denominated an Abstract Book, be kept in the office for registering deeds, wherein it shall be the duty of the Officer to enter from each Memorial, of which a registry shall be duly required, the particulars coming within the description of the respective heads enumerated in the Form marked A, inserted in the annexed Appendix. That it shall be the duty of the officer to compare the particulars of each such entry with the deed from which each Memorial purports to be taken, and if the same are found to correspond, but not otherwise, it shall then be lawful, and the duty of the Officer to certify the registry of said Memorial.

That the Officer shall keep indexes of the names of all grantors that are to be found in any registered Memorial. That each volume of such indexes shall comprise a period of years, and shall contain alphabetical subdivisions of successive heads, consisting of two letters, arranged in dictionary order: that each volume of such indexes shall contain only such names as have the same initial letter; each of which names shall be entered as they occur under the head or subdivision corresponding with the two first letters of each such name respectively: that there shall be annexed to each grantor's name so entered the name of one grantee, the number of the Memorial wherein such names occur (corresponding with the Entry of the said number in the abstract book), and the number and page of the registry book where such Memorial is copied.

That the Officer shall keep indexes of the names of all lands and premises expressed in any registered Memorial. That a separate volume of such indexes shall be appropriated to each county. That each county book shall contain separate divisions under the heads of the baronies comprised in such county, arranged alphabetically, with subdivisions for denominations of lands, &c. beginning with each letter of the alphabet. That each denomination shall be entered under the subdivision appropriated to the initial letter of such denomination. That opposite each denomination so entered, there shall be also entered the name of one grantor and of one grantee, with the number of the Memorial wherein such names and denominations are to be found, corresponding with the number entered in the abstract book, and the number and page of the registry book where such Memorial is copied.

That each book appropriated as an index for the denominations of lands or premises in any city or town, shall comprise divisions for the several parishes within such city or town, respectively, alphabetically arranged, and that the entries of the several denominations, which entries shall comprise the same particulars as the similar entries in the county books, together with the names of the streets wherein the lands or premises denominated are situate, shall be made in alphabetical order, under the heads of the appropriate divisions of parishes, in like manner as the entries under the heads of baronies in the county books.

That

That the Officer shall, as often as required by any person (such requisition to be in writing) make searches for all or any acts done by any person or persons named, concerning any lands, or premises, generally, within any specified period; or concerning any specified lands or premises within any specified period; or for all, or any acts, affecting any lands or premises named, within any specified period.

That as often as he shall be required to make any search, the Officer shall certify such search, and shall deliver an authentic extract from the registry, or abstract books, setting forth abstracts containing the several particulars, under the heads comprised in the Form marked A. in the Appendix annexed to this Report, of all registered Memorials coming within the terms of the requisition for such search.

That the Officer shall keep and file every requisition for a search.

That a true copy of the requisition for any search that shall be required to be certified, shall in every case be made by the Officer, whereunto the said abstracts shall be subjoined, with the following certificate, which the Officer shall subscribe:—
“Upon diligent search made in the Register's Office, I certify that no Memorials coming within the terms of the above requisition are registered, whereof an abstract is not herein truly set forth.”

That no greater or other sum than the fee mentioned in the Table annexed, shall be taken for any service for which such fee is allowed.

That if at any time the production out of Dublin of any original Memorial, or Memorials, shall be required, the party requiring the same shall deposit with the Register a sum equal to 1*s.* per mile for the number of miles included in the distance which the clerk carrying such Memorial shall be required to travel, with an allowance of 1*l.* as for two days' attendance; and such clerk shall be entitled to demand a payment of 10*s.* for each additional day which he shall be required to be in attendance; and if attendance shall be required in Dublin with a Memorial or Memorials, then a payment of 10*s.* per day, and no more.

That henceforward a copy of a Memorial, proved in like manner as copies of any other records, shall be received and taken in evidence, as if the original Memorial was produced; that where it shall be the intention of a party to produce such copy of any Memorial as evidence, such party shall apprise the adverse party thereof by notice; and if the latter shall not assent thereto, but shall require the original Memorial to be produced, he shall signify his dissent by a counter notice. The expense of producing original Memorials in such cases to be defrayed by either party, as the Court, or the Taxing Officer, may award.

That the Officer shall keep a book or books, wherein every fee or sum of money received for the performance of any of the Register's duties, shall be duly and separately entered; which book or books it shall be the duty of the Officer to produce and verify, when called upon by proper authority.

That the Register shall render quarterly accounts to the office of His Majesty's Auditor General of the Exchequer, wherein he shall give full credit for all fees or sums of money received within the period of the said accounts respectively, and shall charge all necessary disbursements for the maintenance, management and execution of the Register's office and duties, together with the salaries of the Register and his Assistant. That the Register shall, at the expiration of each quarter, lodge in the Bank of Ireland the surplus of the receipts above the disbursements appearing upon such account, and shall transmit the acknowledgment of the proper Officer for such lodgment, with the said account, to the Auditor General of the Exchequer.

That at the expiration of each year the Register shall account on oath, before the Commissioners of Accounts, concerning all sums received and disbursed within the period of such yearly account, in like manner as other public accountants.

That each of such accounts, as well quarterly as yearly, shall be jointly verified by the Register and the Assistant Register, to the effect that they have not knowingly or willingly omitted the receipt of any legal claims touching the duties of the Register; that the disbursements charged have been actually defrayed, and to the best of their judgment necessarily incurred, and that no greater amount than the sum appearing in such account, has come to their hands or been received, with the privy of either of them, for or concerning any duty or service performed, or required to be performed, within the period of such account.

WE subjoin a List of all the Fees which we recommend to be established for the performance of the duties of the Register's Office.

	£.	s.	d.
For the Entry of every Memorial (except Memorials of Civil Bill Decrees) and giving Certificate of Registry thereof on the Deed, or Instrument produced, including the Fee for inspecting Stamps,—			
Where the contents of such Memorial shall not exceed 1,000 words - - - - -	0.	10.	0.
If such Memorial shall exceed 1,000 words, then for each 1,000 words - - - - -	0.	10.	0.
And where there shall be a fractional number beyond each 1,000 words, if such number shall not exceed 500 words, then for such fractional number - - - - -	0.	5.	0.
And if it shall exceed 500 words - - - - -	0.	10.	0.
For the Entry of every Memorial of a Civil Bill Decree, and giving Certificate of Registry thereof - - - - -	0.	2.	6.
For each Entry of Dissolution of anonymous Partnership - - -	0.	5.	0.
For the Entry of Certificate of Satisfaction of a Mortgage, and giving Certificate thereof, the same Fee as for the Entry of the Memorial of any Deed or other Instrument.			
For each Copy that shall be required of any Memorial or Certificate entered in the Register's Office, such Copy to be certified by the Officer,—			
If not exceeding three sheets of 72 words each - - - - -	0.	1.	6.
If more, then per sheet - - - - -	0.	0.	6.
For every Search in the Office Books which shall be made by any person employed in the Office, in lieu of all claims as for Search or Abstracts - - - - -	0.	2.	6.
For every Search which the Officer shall be required to make, and for the Certificate upon such Search,—			
If the number of References occurring in the progress of such Search shall not exceed 20 - - - - -	0.	6.	8.
If exceeding 20 and not exceeding 40 - - - - -	0.	10.	0.
If exceeding 40, then for each additional Reference - - - - -	0.	0.	2.
For every Abstract of a Memorial contained in the Certificate of each such Search - - - - -	0.	0.	6.

All which we submit to YOUR MAJESTY's most gracious consideration.

Dated the 25th day of April, 1820.

DANIEL WEBB WEBBER, (L. S.)
 BERTRAM MITFORD, (L. S.)
 THOMAS P. DICKENSON, (L. S.)
 THOMAS STAPLES, (L. S.)
 JOHN DOHERTY, (L. S.)

(A true Copy.)

James Johnston,

Sec^y to the Commissioners.

A P P E N D I X
TO THE
E I G H T H R E P O R T
OF THE
COMMISSIONERS

Appointed to inquire into the Duties, Salaries, and Emoluments, of
the OFFICERS, CLERKS, and MINISTERS of JUSTICE, in all
Temporal and Ecclesiastical Courts in *Ireland*.

REGISTRY OF MEMORIALS.

LIST OF APPENDIX.

No.		
(A.)—Form proposed for entering of Memorials in a Book to be called an Abstract Book	p. 59	
1.—Patent under which the Office of Registrar of Deeds is now held by Viscount Kilwarden	ibid.	
2.—Articles of Agreement entered into between Viscount Kilwarden and George Moore, esq. in 1806	p. 60	
3.—Award on reference respecting the validity of such Articles	p. 61	
4.—Copy Recognizance entered into by Registrar	p. 66	
5.—General Return from Viscount Kilwarden, Registrar of Deeds	ibid.	
6.—Joint General Return of George Moore, Oliver Moore, and Francis Armstrong, esquires, Deputy Registrars	p. 68	
7.—Separate General Return of said George Moore	p. 72	
8.—Like - - - - of said Oliver Moore	p. 74	
9.—Like - - - - of said Francis Armstrong	p. 75	
10.—Examination of Viscount Kilwarden	p. 77	
11.—Memorial presented by Viscount Kilwarden	p. 79	
12.—Joint Letter from George and Oliver Moore, esquires, to Viscount Kilwarden	p. 80	
13.—Examination of George Moore, esq.	p. 81	
14.—Examination of Oliver Moore, esq.	p. 116	
15.—Examination of Francis Armstrong, esq.	p. 120	
16.—Return from George Moore, esq. to the Irish House of Commons, in the year 1800	p. 144	
17.—Like - - - - to the Imperial Parliament in 1814	p. 146	
18.—Examination of John Griffin, esq. late Deputy Registrar	ibid.	
19.—Examination of Patrick Little, Clerk in the Registrar's Office	p. 155	
20.—Examination of William Butler - ditto - ditto	p. 163	
21.—Examination of William Griffin - ditto - ditto	p. 164	
22.—Examination of John Fender - ditto - ditto	p. 166	
23.—Examination of William Davis - ditto - ditto	p. 167	
24.—Examination of Michael Brown - ditto - ditto	p. 169	
25.—Return of the description and number of Books in the Registry Office	p. 170	
26.—Return from George Moore, esq. of Sums accounted for to him by Mr. Griffin, in several years	p. 176	
27.—Return from same, of the gross Fees and Emoluments of the Office, in the five years ending August 1819	p. 177	
28.—Return from same, distinguishing the Proportions in which the gross Fees and Emoluments accrued to Principal, Deputy and Clerk, in the year ending 12th August 1815	ibid.	
29.—Like, in the year ending 12th August 1819	ibid.	
30.—Return from same, of the actual Receipts and Disbursements of the Registrar's Office, in five years ending August 1819	p. 178	
31.—Affidavit of Messrs. George and Oliver Moore, respecting increase of Office Charges	ibid.	
32.—Return of the number of Searches made in the Registry Office, in the years 1816, 1817 and 1818; and of Abstracts taken on such Searches in the year 1816	ibid.	
33.—Return of the different rates of Payments made to Clerks, for their services in the Registry Office	p. 179	
34.—Examination of John Mills, esq. - Solicitor	ibid.	
35.—Examination of William Furlong, esq. - ditto	p. 180	
36.—Examination of Josias Dunn, esq. - ditto	p. 182	
37.—Examination of Robert Hamilton, esq. - ditto	p. 184	
38.—Examination of Edward O'Callaghan, esq. - ditto	p. 186	
39.—Examination of Gerald Hughes, esq. - ditto	p. 189	

APPENDIX.

Appendix (A.)

FORM proposed for entering of Memorials in a Book, to be called an ABSTRACT BOOK.

REGISTRY OF
MEMORIALS, &c.

January, 1821

Number of the Memorial.	General Nature of the Instrument.	Names of Witnesses, and of one or more Gestors.	Names and Description of Lands and Premises.	Number and Page of the Registry Book where the Memorial is entered.	Form of Abstract Book.

Appendix, No. 1.

PATENT under which the Office of Register of Deeds is now held by
Viscount KILWARDEN.

GEORGE the Third, by the Grace of God, of Great Britain, France and Ireland, King, Defender of the Faith, and so forth. TO all to whom these Presents shall come, Greeting:—WHEREAS by an act passed in the parliament of our kingdom of Ireland, in the sixth year of the reign of our late most dear sister Queen Anne, of pious memory, intituled, "An Act for the public registering of all Deeds, Conveyances and Wills, that shall be made of any Houses, Manors, Lands, Tenements or Hereditaments," it is therein enacted, that one public office for registering memorials of deeds and conveyances, wills, and devises, shall be established and kept in our city of Dublin, to be managed and executed by a fit and able person, or his sufficient deputy; such person to be from time to time nominated and appointed by her said Majesty, her heirs and successors, and to continue in the said office for so long a time as he shall faithfully and honestly demean himself therein: And whereas by letters patent bearing date on or about the eighteenth day of November, in the twenty-fifth year of our reign, we were graciously pleased to grant the said office or place of register unto our right trusty and well-beloved counsellor George Ogle, to hold the same to him the said George Ogle during his good behaviour in the execution of the said office, and for so long as he should faithfully demean himself therein, as by the said letters patent, relation being thereunto had, may more fully appear: And whereas our right trusty and well-beloved cousin and counsellor John Earl of Westmorland, our then lieutenant-general and general governor of our said kingdom of Ireland, in his letter to the commissioners of our treasury, bearing date the twenty-eighth day of November one thousand seven hundred and sixty-four, set forth that the said office or place of register of the memorials of all deeds, conveyances, wills and devises made of any houses, lands, manors, tenements and hereditaments within our said kingdom of Ireland, is now held by the Right honourable George Ogle, by letters patent under the great seal of our said kingdom of Ireland, during his good behaviour therein, with a salary of 1,500*l.* a year, upon the civil establishment of Ireland, for the public register of all deeds and conveyances, and desired that our said commissioners would lay before us his humble request, that we would be graciously pleased to grant the said office or place in reversion to the Right honourable Arthur Wolfe, our attorney-general of that kingdom, and his son John Wolfe, esquire, and to the survivor of them, to hold the same during the good behaviour thereof of them and the survivor of them, immediately from and after the death, surrender, forfeiture, or other avoidance of the said George Ogle, or other sooner determination of the letters patent granted to him as aforesaid, together with all fees, salaries, profits, perquisites, emoluments and advantages thereto belonging,

No. 1.
Patent of Register
of Deeds Office
held by Viscount
Kilwarden.